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GREAT SMOKY MOUNTAINS WILDERNESS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 693

TO DESIGNATE CERTAIN LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK AS WILDERNESS; TO PROVIDE FOR SETTLEMENT OF ALL CLAIMS OF SWAIN COUNTY, NORTH CAROLINA, AGAINST THE UNITED STATES UNDER THE AGREEMENT DATED JULY 30, 1943, AND FOR OTHER PURPOSES

S. 695

TO DESIGNATE CERTAIN LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK AS WILDERNESS, AND FOR OTHER PURPOSES

JUNE 23, 1987

Printed for the use of the
Committee on Energy and Natural Resources

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GREAT SMOKY MOUNTAINS WILDERNESS ACT

TUESDAY, JUNE 23, 1987

U.S. Senate,
Subcommittee on Public Lands,
National Parks and Forests,
Committee on Energy and Natural Resources,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Dale Bumpers, presiding.

Senator Bumpers. The subcommittee will come to order.

OPENING STATEMENT OF HON. DALE BUMPERS, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator Bumpers. The purpose of this hearing is to receive testimony on two bills currently before the Public Lands Subcommittee, S. 693 and S. 695. While there are fundamental differences between these bills, both of them would designate a large portion of the Great Smoky Mountains National Park as wilderness, relieve a longstanding obligation to Swain County, NC, and provide access to cemeteries on the north shore of Fontana Lake.

The Great Smoky Mountains National Park is considered to be one of our most beautiful parks. Not surprisingly, therefore, it is also among the most popular with over 9 million visitors last year. The park is known not only for its lovely vistas, waterfalls, creeks, and trails, but also for its diverse plant and animal life. It is home to many rare and endangered species, including the American bald eagle.

It seems that many of the issues raised before the subcommittee today are almost as old as the park itself. For over 40 years we have wrestled with how to compensate Swain County for a road which was lost in the flooding of Fontana Lake, how to provide access to family cemeteries which are no longer accessible by road, and how to manage a unique and fragile environment.

It is my most sincere wish that through this hearing and subsequent action in full committee, we can resolve these issues and put them behind us once and for all. I would like to take this opportunity to welcome those of you who will be testifying this morning. I know many of you have traveled a long distance to share your views with us, and we thank you for it.

Since there are so many witnesses, we would ask that you would limit your testimony to 3 to 5 minutes. In that way we can assure that all will have a chance to speak before we have to adjourn.

At this time I will insert copies of both proposals in the hearing record, which will remain open for 2 weeks to receive additional statements and testimonies.

[The texts of S. 693 and 695 follow:]

II

100TH CONGRESS
1ST SESSION

S. 693

To designate certain lands in the Great Smoky Mountains National Park as wilderness; to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1987

Mr. SASSER (for himself, Mr. GORE, and Mr. SANFORD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate certain lands in the Great Smoky Mountains National Park as wilderness; to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Smoky Mountains Wilderness Act".

SEC. 2. DESIGNATION AND ADMINISTRATION.

(a) DESIGNATION.—(1) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain lands in Great Smoky Mountains National Park, North Carolina and Tennessee, which—

(A) comprise approximately four hundred sixty-seven thousand acres, including—

(i) the lands formerly owned by the Cities Service Company, and

(ii) the tract of land formerly owned by the Tennessee Valley Authority, comprising approximately forty-four thousand acres, as described in the agreement of July 30, 1943 (referred to in section 4), and

(B) are depicted on the map entitled "Proposed Management Zoning, Great Smoky Mountains National Park, North Carolina and Tennessee", and dated March 15, 1981,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Great Smoky Mountains Wilderness.

(2) The lands referred to in paragraph (1) are those lands classified in the January 1982, General Management Plan for Great Smoky Mountains National Park as Natural Environment Type I Subzone (including the tracts formerly

owned by Cities Service Company but not including any amendment to such plan).

(b) ADMINISTRATION.—(1) Subject to valid existing rights, the wilderness area designated under this section shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by such Act as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior.

(2) The Secretary of the Interior shall provide for permanent special access (as defined in appendix D of the General Management Plan referred to in subsection (a)(2)) to any cemetery located within the Hazel Creek Area of Great Smoky Mountains National Park on the date of enactment of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map and a legal description of the wilderness area designated under this section with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made. Such map and legal description shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the superintendent of Great Smoky Mountains National Park.

SEC. 3. RIGHTS AND EASEMENTS RETAINED BY THE TENNESSEE VALLEY AUTHORITY.

The Secretary of the Interior and the Tennessee Valley Authority are directed to negotiate the transfer of certain legal rights and easements retained by the Authority over the area designated as wilderness under section 2, where such legal rights and easements are—

(1) inconsistent with the provisions of the Wilderness Act; or

(2) not necessary for the operation and maintenance of Fontana Reservoir and Dam.

SEC. 4. SETTLEMENT WITH RESPECT TO A ROAD ALONG THE NORTH SHORE OF THE FONTANA RESERVOIR.

(a) FINDINGS.—The Congress finds that Swain County, North Carolina, claims certain rights acquired pursuant to an agreement dated July 30, 1943 (hereafter in this section referred to as the "agreement of July 30, 1943"), between the Secretary of the Interior of the United States, the State of North Carolina, the Tennessee Valley Authority, and Swain

County, North Carolina, which provided, on certain conditions, that the Department of the Interior would construct a road along the north shore of Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir, which road has not been completed.

(b) SETTLEMENT PROVISIONS.—In order to settle and quiet all claims arising out of the agreement of July 30, 1943, the following provisions are made:

(1)(A) The Secretary of the Treasury shall be authorized to pay to Swain County, North Carolina, the sum of $9,500,000.

(B) Such sum shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission.

(C) The principal of such sum may only be expended by Swain County under a resolution approved by an affirmative vote of two-thirds of the registered voters of Swain County.

(D) Interest earned on the unexpended principal of such sum may only be expended by a majority vote of the duly elected governing commission of Swain County.

(2) Swain County, North Carolina, is relieved of any liability to make payments of principal and interest which became due after the effective date of this Act

with respect to the loan (Case Numbered 3887000271600, Code Numbered 9704) obtained on October 12, 1976, from the Farmers Home Administration.

(3) The payment and relief from liability provided for in this section shall constitute full and complete settlement of all claims of Swain County, North Carolina, against the United States of America, the Department of the Interior, and the Tennessee Valley Authority arising out of the agreement of July 30, 1943, and the United States of America, its departments and agencies, including the Department of the Interior, the National Park Service, and the Tennessee Valley Authority, hereafter shall be deemed to have performed the agreement of July 30, 1943, in every particular.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 6. EFFECTIVE DATE.

Beginning on the date of enactment of this Act, the lands described in section 2(a) shall be managed in accordance with the provisions of the General Management Plan for Great Smoky Mountains National Park, adopted in January

1982 (but not including any amendment of or revision to such plan).

○

II

100TH CONGRESS
1ST SESSION

S. 695

To designate certain lands in the Great Smoky Mountains National Park as wilderness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1987

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate certain lands in the Great Smoky Mountains National Park as wilderness, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Great Smoky Mountains Wilderness Act of 1987".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), certain lands in the Great Smoky Mountains National Park, North Carolina and Tennessee, which comprise approximately four hundred thousand acres and which are depicted on the map entitled "Great Smoky Mountains Wilderness, Proposed", and dated October, 1983, are hereby designated as wilderness, and are made a part of the National Wilderness Preservation System. The wilderness designated by this Act, shall be known as the "Great Smoky Mountains Wilderness". It shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by such Act as wilderness areas, except that any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and reference to the Secretary of Agriculture shall be deemed, where appropriate, as a reference to the Secretary of the Interior.

(b) As soon as practicable after the date of the enactment of this Act, a map of the wilderness area and a description of its boundaries shall be filed with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made.

Sec. 3. (a) The Secretary of the Interior is directed to review all policies, practices, and regulations of the Department of the Interior regarding disease or insect outbreaks, forest fires, and the use of modern suppression methods and equipment in such wilderness area to insure that—

(1) such policies, practices, and regulations fully conform with and implement the intent of Congress regarding forest fire, disease and insect control, as such intent is expressed in the Wilderness Act and this Act; and

(2) policies, practices, and regulations are developed that will allow timely, and efficient fire, insect, and disease control, to provide, to the extent reasonably practicable, adequate protection of adjacent Federal, State, and private nonwilderness lands from forest fires and disease or insect infestations.

(b) Congress does not intend that designation of the wilderness area lead to the creation of protective perimeters of buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(c) The Secretary is authorized to provide the handicapped with special access to such wilderness area in a manner consistent with the Wilderness Act.

SEC. 4. The Secretary of the Interior is authorized to allocate funds and personnel necessary to place a suitable historical marker at or near the approach to the Cherokee Qualls Reservation, at Soco Gap, in recognition of the historical importance of Soco Gap and the contribution of the Cherokee Nation.

SEC. 5. (a)(1) Swain County, North Carolina claims certain rights acquired pursuant to an Agreement dated July 30, 1943, between the Secretary of the Interior, the State of North Carolina, the Tennessee Valley Authority, and Swain County, North Carolina, which provided, on certain conditions, that the Department of the Interior would construct a road along the north shore of Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir, which road has not been completed. In order to settle and quiet all claims arising out of said Agreement, the following provisions are made:

(A) The Secretary of the Treasury shall be authorized to pay to Swain County, North Carolina, the sum of $9,500,000.

(B) The sum of $9,500,000 shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission.

The principal of such sum may only be expended by Swain County under a resolution approved by an affirmative vote of two-thirds of the registered voters of such county. Interest earned on the unexpended principal of such sum may only be expended by a majority vote of the duly elected governing commission of such county.

(2) Swain County, North Carolina, is relieved of any liability to make payments of principal and interest which become due after the date of enactment of this Act with respect to the loan (case numbered 3887000271600, Code numbered 9704) obtained on October 12, 1976, from the Farmers Home Administration.

(3) No money appropriated pursuant to this subsection shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim settled by this subsection.

(b)(1) Notwithstanding any other provision of law and not later than eighteen months after the date of the appropriation under the authority of paragraph (4) of this subsection, the National Park Service shall provide limited motor vehicle access to the family cemeteries in existence on the date of the enactment of this Act in the Hazel Creek area of the Great Smoky Mountains National Park behind Fontana Dam. This access shall be provided from the western terminus of the North Shore Road to the site of the former village of Proctor by means of connecting, upgrading, and rehabilitating portions of back country roads as necessary to provide a ten-foot wide, nonpaved, primitive route.

(2) The Secretary may establish, by regulation, such reasonable conditions as may be necessary to assure that access provided under this subsection is consistent with the operation of the park. In prescribing such regulations, the Secretary shall consult with the Hazel Creek Cemetery Association.

(3)(A) Special access as provided for the north shore of Fontana Lake in Appendix D of the General Management Plan shall continue until construction of the limited access required by this subsection is complete.

(B) After limited access has been provided, the Department of the Interior shall be responsible for maintenance of such access.

(4) There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection, but not more than an aggregate amount of $950,000. All sums appropriated pursuant to this paragraph shall be used for the sole purpose of building a limited motor vehicle access.

SEC. 6. (a) The designation of the Great Smoky Mountains Wilderness Area made by this Act shall be effective when the construction of the access required by section 5 is completed.

(b) Except as provided in section 5, there is authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

○

Senator **Bumpers**. This morning we are very honored and pleased to have Senator Jesse Helms, the senior Senator from North Carolina, with us who is the author of S. 695. We are most pleased to have you with us, Senator Helms, and please proceed.

Senator **Helms**. Mr. Chairman, I thank you very much. It's a privilege to——

Senator **Bumpers**. Senator Helms, just a moment. I didn't realize Senator Hecht had come in. Do you have an opening statement, Senator Hecht?

Senator **Hecht**. No. Thank you very much.

Senator **Bumpers**. Please proceed, Senator Helms.

Senator **Helms**. Well, you might ask him whom he sat by at a dinner last night. [Laughter.]

Senator **Bumpers**. Maybe he doesn't want to admit that in public.

Senator **Hecht**. No. I was on the other side. There was a young lady sitting between Senator Helms and myself, a very dedicated great American, Fawn Hall.

Senator **Helms**. Amen, brother.

STATEMENT OF HON. JESSE HELMS, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator **Helms**. Mr. Chairman, I do appreciate the opportunity to testify. I realize that a number of witnesses are here to speak. And as is as always the case, time is precious, so I'll keep my comments as brief as possible.

At the outset, let me make what I think is a fundamental point. At issue here is whether the U.S. Government will keep its word and live up to a very clear commitment made 44 years ago in exchange for the right to flood the area and create Fontana Lake. The integrity of the Federal Government and those of us who serve in Congress today will be decided by what we do or fail to do in the minds of the people who have been waiting for 44 years.

Now, the two legislative proposals are very similar except that my bill would require the Federal Government to keep its promise made in writing more than four decades ago. And I submit again for the purpose of emphasis that this is tremendously important. If our Government cannot be trusted to keep its word, then we can no longer wonder about the cynicism with which so many Americans view their Government and the politicians who operate it.

Mr. Chairman, S. 695, if enacted, would accomplish two things. First, as the Chairman has already indicated in his remarks, it would resolve a 44-year-old dispute between Swain County, NC and the Federal Government. Second, it would preserve approximately 400,000 acres of forest in North Carolina and Tennessee by designating this land as wilderness. Now, both bills would do that.

Now, in 1943 the U.S. Department of the Interior, the Tennessee Valley Authority, the State of North Carolina, and Swain County, NC, entered into an agreement concerning land north of what is now Fontana Lake. In return for the right to flood thousands of acres and key roadways to create Fontana Lake, the Department of Interior made a solid commitment to build a road along the north shore from Bryson City to Fontana Village so that the residents of that area could continue to visit graves located north of the lake.

Now, four and a half decades later and still no road—at least not the complete one promised 44 years ago. The State of North Carolina did make good on its part of the bargain by building a portion of the road, but the Federal Government has thus far reneged on its part of the bargain.

Now, there has been a lot of hemming and hawing over the past 10 years that the environmentalists won't allow this road to be built. Now, Mr. Chairman, the Federal Government made a promise and thus far has reneged on it. And the question is self-evident. Is fear of the self-proclaimed environmentalists so great that the Federal Government will refuse to keep its word?

Now, I plead with this committee to address this very real issue. When the Federal Government took the land from the people of Swain County, it promised a road. I believe the Swain County Government should fulfill its commitments despite any political pressure exerted by environmentalists or any other special interest group.

Quite frankly, the Sasser bill fails in fulfilling this commitment. In addition to placing the land in wilderness which would prohibit the building of a road, the bill as introduced references the General Management Plan as the method of access. Now, Mr. Chairman, the General Management Plan states that access will be provided by—and get this—"four-wheel drive vehicles or horse-drawn wagons." Access by horse-drawn wagons is a far cry from a road promised in 1943.

So, I say again, Mr. Chairman, S. 695 would resolve this dispute to fulfill the promises made to the people of Swain County in 1943. In addition to incorporating into law the terms of a tentative agreement reached by county officials and the Federal Government, my bill would also expand the terms of the settlement to take into account those persons needing access to their heritage. It authorizes a minimal amount of money for construction of a primitive, logging-style route to the cemeteries. And I genuinely believe that equity demands at least some access to the area.

Now, Mr. Chairman, in the interest of time, I'm going to ask unanimous consent that the balance of my statement be included in the record.

Senator BUMPERS. Thank you very much, Senator.

Senator HELMS. And I thank you, Mr. Chairman. And I don't know at what time during these hearings you will wish to hear Hon. S. Thomas Rhodes who is the Secretary of Natural Resources and Community Development for the State of North Carolina. Tommy is here. He's a fine young man, and has served the State well. And he will be testifying on behalf of the Governor, Jim Martin, in favor of my bill, S. 695.

Now, if I may, Mr. Chairman, I would like to insert the 1943 agreement—I would like for the committee to insert in the record the 1943 agreement on this road between the Federal Government and Swain County.

And I would call the committee's attention to just a small portion of letters from the Swain County area, which I have received, and some of them are addressed to Senator Wallop, who was good enough to go down some years ago and conduct a hearing on this question. So, I don't ask that these be made a part of the record, but I would just ask that the distinguished Chairman and Senator Hecht take a look at them if you have time.

And I thank you very much.

[The prepared statement of Senator Helms and the 1943 agreement follow:]

TESTIMONY OF THE HONORABLE JESSE HELMS
BEFORE
THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
JUNE 23, 1987

MR. HELMS. Mr. Chairman, I appreciate the opportunity to testify before your subcommittee on S. 695, the "Great Smoky Mountains Wilderness Act of 1987". I realize that a number of witnesses are here to testify and as is always the case, time is precious, so my comments will be brief.

At the outset, I would make this point: At issue here is whether the United States Government will keep its word and live up to a very clear commitment made 44 years ago in exchange for the right to flood the area and create Fontana Lake. The integrity of the federal government, and those of us who serve in Congress today, will be decided by what we do, or fail to do, in the minds of people who have been waiting for 44 years.

The two legislative proposals are very similar except that my bill would require the federal government to keep its promise, made in writing, more than four decades ago. I submit that this is tremendously important. If our government cannot be trusted to keep its word, then we can no longer wonder about the cynicism with which so many Americans view their government and the politicians who operate it.

Mr. Chairman, S. 695, if enacted, would accomplish two things: First, it would resolve a 44-year old dispute between Swain County, North Carolina and the Federal

Government and second, it would preserve approximately 400,000 acres of forest in North Carolina and Tennessee by designating this land as wilderness. Both bills would do that.

Mr. Chairman, in 1943 the U.S. Department of the Interior, the Tennessee Valley Authority, the State of North Carolina and Swain County entered into an agreement concerning land north of what is now Fontana Lake. In return for the right to flood thousands of acres and key roadways to create Fontana Lake, the Department of Interior made a solid commitment to build a road along the north shore from Bryson City to Fontana Village so that the residents of that area could continue to visit graves located north of the lake.

Four and one half decades have passed and still no road---at least not a complete one as promised 44 years ago. The State of North Carolina made good on its part of the bargain by building part of the road, but the federal government has thus far reneged on its part of the bargain.

This Senator has heard a lot of hemming and hawing over the past 10 years that the environmentalists won't allow the road be built. Mr. Chairman, the federal government made a promise and then reneged on it. Is fear of the self-proclaimed environmentalists so great that the federal government will refuse to keep its word?

I plead with this Committee to address this very real issue. When the federal government took the land from the people of Swain County, it promised a road. I believe the federal government should fulfill its commitments, despite any political pressure exerted by environmentalists or any other special interest group.

Quite frankly, the Sasser bill fails in fulfilling this commitment. In addition to placing the land in wilderness which would prohibit the building of a road, the bill, as introduced, references the General Management Plan as the method of access. Mr. Chairman, the General Management Plan states that access will be provided by "four-wheel drive vehicles or horse-drawn wagons". Access by horse-drawn wagons is a far cry from a road as promised in 1943.

S. 695 would resolve this dispute to fulfill promises made to the people of Swain County in 1943. In addition to incorporating into law the terms of a tentative agreement reached by county officials and the Federal Government, my bill would also expand the terms of the settlement to take into account those person needing access to their heritage. It authorizes a minimal amount of money for construction of a primitive, logging-style route to the cemeteries. I genuinely believe equity demands at least some meager access to the area.

I recognize that gradually escalating costs have lessened the prospects of building the original North Shore Road, but the citizens most affected are not asking for that. They are asking only that Congress consider widening an existing trail along the edge of the lake to permit the families to visit their heritage. I believe this can be done without interfering with the overall management of the park.

In addition, my bill would establish a core wilderness area by adding 407,717 acres to the National Wilderness Preservation System. My bill would exempt from wilderness designation all major roads and tourist sights in the park, most of which are in Tennessee. It also excludes 44,170 acres north of Fontana Lake, and it creates a buffer of sorts between the Cherokee Indian Nation and the wilderness.

The Tennessee Valley Authority, which supplies electric power to large portions of North Carolina and Tennessee, also has an interest in those 44,000 acres. The TVA holds recorded easements north of the lake for purposes of maintaining its power lines and monitoring other equipment.

The Cherokee Indians have an interest in maintaining the current management status of that acreage. I am advised that they use a small tract north of the Cherokee Indian Nation relative to their traditions and heritage. In my judgment, Congress should not preclude these current uses of the park through wilderness designation.

In summary, I believe, Mr. Chairman that all North Carolina citizens--including the members of the North Shore Road Cemetery Association--deserve a fair shake in this matter. I have been, and I will remain, optimistic that legislation can be prepared that will be satisfactory to both the states of Tennessee and North Carolina and simultaneously fulfill commitments this government made to the people of Swain County 44 years ago.

I thank you, Mr. Chairman, for granting me this opportunity to testify on S. 695.

9

TENNESSEE VALLEY AUTHORITY

DAVID E. LILIENTHAL
CHAIRMAN
HARCOURT A. MORGAN
DIRECTOR
JAMES P. POPE
DIRECTOR

Maps and Surveys Division
Grave Removal Section
Bryson City, North Carolina

FOR VICTO
BUY
UNITED STAT
WAR SAVING
BONDS·STAM

July 31, 1943

Mr. L. B. Cook
Marion,
North Carolina

Dear Mr. Cook:

The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, North Carolina, and to reach this cemetery in the future will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

We have interviewed various relatives of the deceased who are buried in this cemetery and they have requested that the graves of their relatives remain undisturbed. We are enclosing a remain agreement for the grave of your relative and if it is your desire that this grave be left undisturbed, please sign, filling in where possible the items checked in red and return in the enclosed franked envelope, postage not required. If it is your desire that the grave of your relative be moved to some neighboring cemetery which is accessible by road, please write us and we will immediately send you the proper papers to sign and the Tennessee Valley Authority will move this grave without cost to you and reinter it in any cemetery of your choice located in Swain County, provided we can secure permission to bury in that cemetery.

Your immediate attention to this matter will be appreciated and if there is any additional information you desire concerning the above stated matter, please let us know.

Very truly yours,

TENNESSEE VALLEY AUTHORITY

H. H. Turner
H. H. Turner-Supv.
Grave Removal Section M. L. D.

HHT:CM
Enc.

Contract TV-80454

EXHIBIT "C"

THIS AGREEMENT, made and entered into as of the 30th day of July 1943, by and between TENNESSEE VALLEY AUTHORITY (hereinafter called the "Authority"), a corporation created by an act of Congress known as the Tennessee Valley Authority Act of 1933; the STATE OF NORTH CAROLINA (hereinafter called the "State"), acting by and through its Governor, its Council of State, and its State Highway and Public Works Commission; SWAIN COUNTY (hereinafter called the "County"), a political subdivision of the State of North Carolina, acting by and through the Board of Commissioners for the County of Swain; and UNITED STATES DEPARTMENT OF THE INTERIOR (hereinafter called the "Department"), acting herein for the use and benefit of the National Park Service of said Department,

WITNESSETH:

WHEREAS, the Authority, pursuant to the powers vested in it by the Tennessee Valley Authority Act of 1933, is engaged in the construction of a hydroelectric development, known as the Fontana Project, consisting of a dam and reservoir on the Little Tennessee River in North Carolina, said dam being located approximately ten (10) miles upstream from the Tennessee-North Carolina State Line; and

WHEREAS, the Forney Creek Road District has heretofore issued bonds for and constructed a road or highway extending from Deals Gap on the west to Bryson City on the east, said road following a course north of the Little Tennessee and Tuckasegee Rivers and south of the present southern boundary of the Great Smoky Mountains National Park (hereinafter referred to as the "Park"); and

WHEREAS, the County has heretofore assumed full liability for all principal of and interest on the bonds issued for the construction of said road as aforesaid, and in 1940 issued its own refunding bonds (and interest funding bonds) in the place of all such bonds then outstanding and unpaid; and

WHEREAS, the State has heretofore assumed jurisdiction and control of said Deals Gap-Bryson City road, which is now known as North Carolina State Highway No. 288, and of all other public roads connecting therewith; and

WHEREAS, the reservoir to be constructed and operated by the Authority as a part of said Fontana Project will submerge, flood, or otherwise adversely affect a substantial portion of said Highway 288 east of the site of the Fontana Dam, together with other public roads connecting with said Highway 288; and

WHEREAS, the War Production Board has indicated that it would not approve or permit the reconstruction or relocation of said Highway 288 so long as the present war emergency and the shortage of labor, materials, and equipment resulting therefrom continue to exist; and

WHEREAS, said Highway 288 as now constructed does not furnish or afford a high standard of service, and it is recognized by the parties hereto that the reconstruction or relocation of said road on an equivalent basis after the war emergency or at any other future time would not constitute a wise or efficient expenditure of public funds; and

WHEREAS, there are now held in private ownership certain lands (hereinafter described in section 1 of this agreement) aggregating approximately forty-four thousand four hundred (44,400) acres in area, located within the limits of the County south of the present southern boundary of the Park and north of the Little Tennessee and Tuckasegee Rivers, all of which acreage (along with certain other acreage now in private ownership) was originally proposed for inclusion within the boundaries of the Park; and

WHEREAS, the acquisition of said land described in section 1 hereof by the United States of America and the inclusion thereof within the boundaries of the Park would serve to extend said boundaries substantially as originally contemplated, and would also establish a basis for the construction by the Department of a park standard road over and across said land; and

WHEREAS, the Department regards a park standard road connection between Deals Gap and Bryson City as an important link in a planned "around the Park" road, has included the same as a part of a Master Plan for the development of the Park (extended as aforesaid), and, subject to inclusion of the aforesaid additional acreage within the Park area, is agreeable to initiating construction of the Park portion of such a road as soon after the present war as funds are made available therefor by Congress; and

WHEREAS, the parties hereto desire to provide for and agree upon the extension of the Park boundaries as aforesaid, the closing and ultimate replacement of Highway 288, and the immediate and final settlement and disposition of all claims which the State and the County may at any time have against the Authority or the United States of America by reason of the flooding, taking, or closing of said Highway 288 and the other roads hereinafter described or referred to, all in the manner and upon the terms and conditions hereinafter specified, and all to the end and purpose of avoiding unwise and inefficient expenditures of public funds and of capturing certain benefits for the region affected and the public generally;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and promises hereinafter contained, it is hereby mutually agreed by and between the parties hereto as follows:

1. Promptly upon the execution of this agreement, the Authority shall, to the extent it has not already done so, in the name of the United States of America, commence and thereafter prosecute in a systematic, orderly, and diligent manner the acquisition by purchase, the exercise of eminent domain, or otherwise, of the land identified on the map attached to and hereby made a part of this agreement as Exhibit A as "Land Proposed for Transfer to U. S. Department of Interior," the land to be so acquired being more particularly described as follows:

> All that land, except that part hereinafter excluded, lying in Swain County, North Carolina, on the north side of the Little Tennessee and Tuckasegee Rivers, and south of the Great Smoky Mountains National Park, extending from Twenty Mile Ridge on the west to the divide between Lands Creek and Peachtree Creek on the east, the east boundary of the area being approximately 2 miles west of Bryson City, North Carolina, the said area being bounded as follows:

(1) On the west and north by the present boundary line of the Great Smoky Mountains National Park;

(2) On the east by the divide between Lands Creek and Peachtree Creek (the nearest property line being the true boundary) but including the two tracts along the Tuckasegee River formerly owned by A. E. Lowe and A. L. and W. C. Nichols and acquired by the Authority from Nantahala Power and Light Company under tract designations FR-262 and FR-264;

(3) On the south by proposed Fontana Lake (1710 contour) from the east boundary to a point on the edge of the lake approximately 3600 feet as measured along the shore (1710 contour) in a northerly direction from the axis of Fontana Dam; thence first with the north boundaries thence the west boundary of two tracts of land acquired by the Authority from Nantahala Power and Light Company and Carolina Aluminum Company, respectively, under tract designations FR-438 and FR-16 to a point 150 feet north of the center line of the principal access road to Fontana Dam and approximately 100 feet west of Lewellyn Branch; thence along a line parallel to and 150 feet north of said center line in a general westerly direction to an intersection with the boundary line of the Great Smoky Mountains National Park on the south end of Twenty Mile Ridge and east of Twenty Mile Creek.

/ Excepting and excluding from the area above defined (1) all those lands owned by the North Carolina Exploration Company, consisting of some three of four tracts of land situated in the Eagle Creek and Myers Branch watersheds and containing approximately 1920 acres, more or less, and (2) all land upstream from Fontana Dam having the elevation of its present ground surface below the plane of the 1710-foot (m.s.l.) contour./

The above described land contains a net total of approximately 44,400 acres, more or less.

Provided, however, that the Authority may at its election postpone the acquisition or the taking of any steps in connection with the acquisition of all or any part of or interest in the following property:

> The tract of land owned by the North Carolina Mining Corporation situated on the north side of the Sugar Fork tributary of Hazel Creek approximately 2 miles north of Proctor and being the tract of land conveyed by Walter S. Adams and wife, Melind, to the North Carolina Mining Corporation by deed dated March 29, 1901, and recorded in the Office of the Register of Deeds of Swain County, North Carolina, in Deed Book 29, Page 238, the said tract containing 196 acres, more or less.

until a date six months after the cessation of the hostilities in which the United States is now engaged, it being recognized by the parties hereto that the mining of said tract of land and the removal of such minerals as may be contained therein may be of importance to the prosecution of the war.

It is recognized and agreed that any or all of the lands acquired by the Authority under this section may be subject to outstanding rights of way, easements, and/or mineral rights; that any of said lands acquired from the Aluminum Company of America or any of its subsidiaries may be subject to rights of way one hundred fifty (150) feet in width for any transmission line or lines of any of said companies which may be constructed to interconnect any of the plants of said companies with the power system of the Authority, the location of such rights of way to be as agreed upon from time to time by said companies or any of them and the Authority; and that any of said lands acquired from Carolina Aluminum Company may be subject to any or all of the following perpetual rights, easements, and privileges in favor of Carolina Aluminum Company, its successors and assigns, as the owner or owners of the dam site of the Cheoah Development and as appurtenant thereto:

(a) The right at all times without limitation or restriction to flood by the waters of the reservoir impounded by the Cheoah Dam or any other dam erected on or near the site thereof, the said properties to an elevation of 1276.63 feet above mean sea level and to flood said properties to such additional elevations as may result from wave action, floods, and other high water conditions.

(b) The right in the discretion of Carolina Aluminum Company, its successors or assigns, to remove from the shore of Cheoah Reservoir and the land under said reservoir and to destroy or otherwise dispose of silt, drift, timber, vegetation, and other matter, and to use said shore and land for such purposes and any other purpose reasonably connected with the maintenance and operation of the Cheoah development, together with the right of ingress, egress, and regress for such purposes with tools, vehicles, and equipment across said properties.

It is further understood and agreed that in the purchase or other acquisition of the aforesaid land as herein provided, the Authority shall be privileged to follow and abide by its standard policies and procedures, as the same may be varied or amended from time to time, pertaining to the acquisition of lands or interests therein. The Authority shall not be responsible and shall incur no liability under this section for any delay or delays in the acquisition of title to any of said land caused by or attributable to title searches or other studies, condemnation proceedings or other litigation, or caused by or attributable to any act or circumstance which is incident to or reasonably related to such acquisition or which is beyond the Authority's control, it being the intention of the parties that the Authority shall incur no liability for any delays in the acquisition of any land under this section resulting from any cause whatsoever other than the willful failure or refusal of the Authority to take any step necessary to effect such acquisition.

2. Immediately following its acquisition in accordance with section 1 hereof of all of the land described in said section, the Authority shall assign and transfer to the Department, for the use and benefit of the National Park Service and for inclusion as a part of the Park, the right of possession and all other right, title, and interest which the Authority may have in and to said land, and shall also grant to the Department, its agents, servants and invitees the right of access to and use of all lands of the United States in the Authority's custody lying upstream from Fontana Dam between the land to be transferred to the Department hereunder and low watermark on Fontana Lake, together with the right of access to and the use of the waters of said lake, for the purpose of constructing and maintaining thereon boating and recreational facilities, piers, docks, and related equipment, and of performing all other acts which may be reasonably necessary to the administration and use, as a part of the Park, of the lands to be transferred to the Department under this section 2; provided, however, that said assignment, transfer, and grant shall be effected by an agreement of transfer between the Authority and the Department substantially in the form attached to and made a part hereof as Exhibit B, and shall be subject to all of the terms, conditions, provisions, exceptions, exclusions, and reservations contained in said Exhibit B, and shall also be subject to all those rights, easements, and interests (whether or not now listed or specified in said Exhibit B) which have been or may be reserved or left outstanding at the time of the Authority's

acquisition of the lands described in section 1, as permitted or contemplated by said section 1; provided further that, prior to the execution of said transfer agreement, a metes and bounds description of the lands to be transferred to the Department thereunder shall be incorporated therein in substitution for the description of said lands now contained in Exhibit B; and provided further that if the Authority shall at any time have acquired all of the land described in section 1, with the exception of all or any part of or interest in the North Carolina Mining Corporation tract separately described in said section 1, the Authority and the Department shall then enter into an agreement of transfer, as aforesaid, with respect to so much of the land described in section 1 as the Authority shall then have acquired, and in such case said North Carolina Mining Corporation tract, or the part thereof or interest therein not initially transferred by the Authority to the Department, shall be the subject of a separate and subsequent agreement of transfer between the Authority and the Department, such subsequent agreement of transfer to be consistent with the provisions of this agreement and substantially in the form attached hereto as Exhibit B, and to be executed immediately following the Authority's acquisition of the part of or interest in said tract not covered by the initial agreement of transfer.

The parties recognize and agree that, as an incident to the construction, maintenance, and operation of the Fontana Project, the Authority will acquire certain lands and rights and interests in land in addition to those specified to be acquired under section 1 hereof and to be transferred under this section 2. The acquisition of such additional lands and rights and interests in land shall not give rise to any obligation on the part of the Authority to transfer the same, or any part thereof or interest therein, to the Department, and the Authority's sole obligation under sections 1 and 2 of this agreement shall be to effect the acquisition of the lands specified in section 1 and to transfer the possession and control of said lands to the Department along with the additional rights of access and use specified in the preceding paragraph, all as herein specifically provided.

3. The Department agrees to enter into an agreement or agreements of transfer with the Authority as provided by section 2 hereof, and, pursuant to and subject to the provisions of such agreement or agreements, to accept an assignment and transfer of the lands described in section 1 hereof, together with the additional rights of access and use specified in section 2. The Department further agrees that, forthwith upon the execution and delivery of such an agreement of transfer, it will extend the present boundaries of the Park to embrace and include the land transferred thereby.

4. The Department represents and states that it has evolved a Master Plan for the development of the Park as extended by the addition of the lands described in section 1 hereof, and that said Master Plan includes an "around the Park" road, of which the Park section of a projected road between Deals Gap and Bryson City constitutes an important link. Subject to the transfer by the Authority to the Department of the

land described in section 1 as herein provided, the Department agrees that, as soon as funds are made available for that purpose by Congress after the cessation of the hostilities in which the United States is now engaged, the Department will construct or cause to be constructed the following described sections of road, all of said sections being hereinafter collectively referred to as the "Park Road":

> (a) A section of road beginning at a point on the Fontana Dam Access Road near the crossing of Fax Branch, and extending to a point on the western boundary of the land identified on Exhibit A as the property of North Carolina Exploration Company.
>
> (b) A section of road beginning at the eastern boundary of said North Carolina Exploration Company land and extending to the eastern boundary of the Park as extended hereunder.
>
> (c) A section of road across said North Carolina Exploration Company land connecting the ends of the sections of road described in paragraphs (a) and (b) above.
>
> (d) A section of road beginning at a point in the road described in paragraph (a) above, and extending in a generally southerly direction to the west abutment of Fontana Dam.

Provided, however, that in lieu of the sections of road ✓ described in paragraphs (a), (b), and (c) above, the Department may at its election construct or cause to be constructed, as a part of the Park Road, a continuous section of road beginning at a point on the Fontana Dam Access Road near the crossing of Fax Branch and extending around the aforesaid property of the North Carolina Exploration Company (through existing Park lands) to the eastern boundary of the Park as extended hereunder. In the event of such election on the part of the Department, the Department shall nevertheless construct or cause to be constructed, as a part of the Park Road, the section of road described in paragraph (d) above, which section shall in such case commence on said alternative section of Park Road at a point west of the lands identified on Exhibit A as the property of North Carolina Exploration Company. Upon commencement of construction of the Park Road, Authority shall transfer and assign to Department its right of possession, and all its other right, title, and interest in and to the land required for the right of way of that portion of the road described in paragraph (d) above which lies within the boundaries of Fontana Dam Reservation. The Department shall secure and provide for itself all such easements and rights of way as may be necessary for the construction and maintenance of any portion of the Park Road which may be located upon or across any of said North Carolina Exploration Company property.

If and when funds are made available by the Congress for said Park Road as aforesaid, the location and type of said road, the method and manner of constructing the same, and all standards and specifications therefor shall be determined by Department in its sole discretion; provided, however, that said Park Road when constructed shall as a minimum standard be finished throughout its length with a dustless surface not less than twenty (20) feet in width; and provided, further, that said Park Road shall connect at the eastern boundary of the Park, as extended hereunder, at a point to be selected by the Department, with the road which is to be constructed by the State in accordance with and subject to the provisions of section 6 hereof.

The obligation of the Department to construct or provide for the construction of a Park Road as defined in this section 4 shall be subject to and contingent in all respects upon the appropriation by

Congress of all funds necessary for such construction, and failure on ✓ the part of Congress for any reason to make such appropriations shall not constitute a breach or violation of this agreement by the Department or any other party hereto.

5. Following completion of the Park Road to be constructed by the Department subject to the provisions of section 4, the Department may in its discretion bar said road to commercial use, and restrict the same solely to pleasure and tourist traffic.

6. At such time as the Department shall commence the construction of the Park Road pursuant to section 4 hereof, the State shall forthwith proceed to acquire good and sufficient easements and rights of way for, and shall construct, a road commencing at a point on U. S. Highway 19 in Bryson City, North Carolina, and extending to a point on the eastern boundary of the Park (as extended hereunder) to be selected and designated by the Department, the point so designated by the Department to be such as to provide for the connection of the State road provided for in this section with the Park Road described in section 4. The easements and rights of way to be acquired by the State for said Bryson City-Park Boundary Road shall be not less than two hundred (200) feet in width outside the corporate limits of Bryson City. In all other respects, except for the termini thereof as above provided, the location and type of said road, the method and manner of constructing the same, and all standards and specifications therefor shall be determined by the State in its sole discretion;

provided, however, that said road when constructed by the State shall as a minimum standard be finished throughout its length with a dustless surface not less than twenty (20) feet in width.

7. Following completion of the construction of the Fontana project by the Authority, the Authority, on its own behalf and as agent of the United States of America, shall quitclaim to the State all of the right, title, and interest which it or the United States of America may have in and to the so-called Fontana Access Road heretofore constructed by the Authority from U. S. Highway 129 near Deals Gap to the left (east) abutment of the Fontana Dam, including all bridges, culverts, and other facilities constituting a part of said access road. In connection with and as a part of the transfer of said access road to the State as aforesaid, the Authority shall also:

> (a) Transfer and quitclaim or cause to be transferred and quitclaimed to the State all easements and rights of way acquired by the Authority as agent of the United States appurtenant to those portions or sections of said access road which may be located outside the limits of land of the United States in the custody of the Authority, together with such land as the Authority, as agent of the United States, may hold or acquire in fee west of a point on the north right of way line of said access road approximately one hundred (100) feet west of Lewellyn Branch, and between said north right of way line and the Cheoah Reservoir of Carolina Aluminum Company. For the purposes hereof, the north right of way line of said access road west of said point approximately one hundred (100) feet west of Lewellyn Branch shall be deemed to be a line parallel to and one hundred fifty (150) feet north of the center line of said access road.
>
> (b) Grant and quitclaim or cause to be granted and quitclaimed to the State suitable easements and rights of way for the maintenance of all of the portions of said access road which are located on land of the United States

in the custody of the Authority, where such land is not included in the land to be transferred and quitclaimed to the State under paragraph (a) immediately preceding.

(c) Transfer and assign or cause to be transferred and assigned to the State an agreement between the Authority and Carolina Aluminum Company dated May 5, 1943, relating to an easement for the construction and maintenance of the bridge located on said Fontana Access Road across the Little Tennessee River, together with all rights, privileges, and interests of the Authority and the United States in, to, and under said agreement.

The State agrees that it will, by formal agreement with the Authority and Carolina Aluminum Company, accept an assignment of the aforesaid agreement of May 5, 1943, and assume all of the duties and obligations of the Authority and the United States of America thereunder, so as to effect the substitution of the State for the Authority and the United States of America for all of the purposes of said agreement as contemplated by section 3 thereof. The State further agrees that, forthwith upon the transfer of said access road as aforesaid, it will open and thereafter maintain said access road for public travel, take over at the expense of the State the maintenance, repair, and upkeep thereof, and thereafter forever hold the Authority and the United States of America harmless on account of any loss, damage, or injury sustained by any person or persons using the same; provided, however, that in transferring said access road to the State as aforesaid, the Authority may reserve the right, but shall have no obligation, to maintain, flatten, plant grass or shrubbery upon, or otherwise modify the slopes of cuts and embankments adjacent to any portion or portions of said access road between the south end of the Little Tennessee River Bridge and the left (east) abutment of Fontana Dam.

8. Forthwith upon the execution of this agreement, the State, as a means of cooperating with and assisting the Authority in the purchase of the land described in section 1 hereof, and in the settlement of the problems incident or related thereto, shall pay to the Authority the sum of One Hundred Thousand Dollars ($100,000), such payment to be made for the purposes of and pursuant to the authority contained in S.B.198 enacted at the 1943 Session of the North Carolina Legislature and approved March 5, 1943.

9. Promptly upon the execution of this agreement, the Authority shall pay to the State Treasurer of North Carolina, Treasurer ex officio of the North Carolina Local Government Commission, in trust for the County, the sum of Four Hundred Thousand Dollars ($400,000), said State Treasurer of North Carolina being hereby designated by the County to receive and receipt for said sum on the County's behalf.

Prior to or simultaneously with the payment of said sum to said State Treasurer of North Carolina, the County shall enter into a trust agreement governing the management and disbursement of said trust fund. Said trust agreement shall be subject to the approval of the North Caroline Local Government Commission, and shall provide that said sum shall be applied by the trustee exclusively to the payment of the principal of road bonds of the County which are now outstanding and unpaid. The County agrees that said trust agreement, once entered into with the approval of the North Carolina Local Government Commission, shall not be amended, revoked, or supplemented except with the written consent and approval of said Local Government Commission.

Delivery to said State Treasurer, as Treasurer ex officio of the North Carolina Local Government Commission, of the Authority's check in the amount of Four Hundred Thousand Dollars ($400,000), payable to his order as trustee for the County, shall operate as a complete fulfillment and discharge of all obligations of the Authority under this section 9.

10. The State and the County hereby agree that they will, forthwith upon receipt of a request from the Authority so to do, by instrument or instruments in form suitable for recording, transfer, assign, convey, and quitclaim unto the Authority and the United States of America all right, title, and interest which they and the public may have in and to that portion or section of existing North Carolina State Highway 288 between Fax Branch and Watkins Branch, in and to all other roads or portions or sections of road (irrespective of elevation) located upon or across any of the land described in section 1 hereof and/or any of the land identified on Exhibit A hereto as the property of North Carolina Exploration Company, and in and to all other roads or portions or sections of road in the County lying north of the Little Tennessee and Tuckasegee Rivers east of Fontana Dam below elevation 1715 (m.s.l.), including all bridges, culverts, and other facilities constituting a part of any of said roads or portions or sections of road, together

with all easements and rights of way appurtenant thereto. The State and the County further agree that they will, forthwith upon receipt of a request from the Authority so to do, take or procure the taking of any and all action which may be necessary and appropriate to vacate and abandon all of the roads and portions or sections of road to be conveyed and quitclaimed as provided in this paragraph, and to close the same to the use of the public. Until such time as the Authority shall request the conveyance and the vacation, abandonment, and closing of the roads or portions or sections of road referred to in this paragraph, all such roads or portions or sections of road shall retain their present status and continue to be used and maintained as public roads or highways.

In consideration of the premises and of the covenants and promises of the Authority and the Department in and under this agreement, the State and the County, for themselves, their respective successors, representatives, and assigns, shall and do hereby, jointly and severally, release, acquit, and discharge the Authority, its successors and assigns, and its agents and employees, and the United States of America, of and from all obligations, liability, claims and demands of every nature, character, or description, whether now or hereafter existing, arising out of or in any way connected with the inundation, closing, or taking, under or as the result of this agreement or as the result of the construction, maintenance, or operation of Fontana Dam or Fontana Reservoir, of North Carolina State Highway 288, or any portion or section thereof, wheresoever located, or of any other road or roads or section or sections of road (irrespective of elevation) located wholly or partially upon or across any of the land described in section 1 hereof or any of the land identified on Exhibit A hereto as the property of North Carolina Exploration Company, or of any road or roads or section or sections of road lying north of the Little Tennessee and Tuckasegee Rivers below elevation 1715 (m.s.l.), together with all obligations, liability, claims, and demands arising out of or in any way connected with any impairment of the efficiency, value, usability, or convenience of any portion (irrespective of elevation or location) of said Highway 288 or of any of said other roads or sections of road, not so inundated, closed, or taken; and the State and the County expressly agree that they will not, jointly or severally, maintain or attempt to maintain any suit or cause of action against the Authority, its agents or employees, or the United States of America based upon or arising out of any such inundation, closing, taking, or impairment, it being the intention hereof that the covenants and promises of the Authority and the Department herein contained shall constitute and effect and be accepted as an immediate, complete, and final payment and discharge of all such obligations, liability, claims, and demands; provided, however, that nothing herein contained shall apply to or preclude any action by the State or the County to enforce compliance or to recover damages for noncompliance by the Authority or the Department with their respective covenants and promises herein made.

11. Anything in section 10 to the contrary notwithstanding, the State does not release or waive or agree not to enforce any claim,

demand, or "action over" which it may now or hereafter have against the Authority or the United States, and which is based upon an obligation or liability which the State may have or incur to any landowner by reason of his being deprived of access to land owned by him in Swain County, North Carolina, where such obligation or liability on the part of the State arises out of the inundation, flooding, closing, or other impairment, under or as the result of this agreement or as the result of the construction, maintenance, or operation of Fontana Dam or Fontana Reservoir, of existing North Carolina State Highway 288 between Fax Branch and Watkins Branch; and the Authority hereby expressly agrees to indemnify the State against and save it harmless from any such obligation or liability; provided, however, that whenever such obligation or liability exists or is alleged or claimed to exist on the part of the State in favor of any landowner, the State shall not, except pursuant to a judicial judgment or decree, pay, compromise, settle, or otherwise dispose of such obligation or liability or any claim, demand, suit, or action based thereon without the written consent of the Authority; and provided further that the Authority shall at all times have and exercise full control over the defense, settlement, and disposition of all claims, demands, suits, and actions filed with or against the State in respect of any such obligation or liability, and may compromise, settle, or dispose of the same in any manner or by any method or procedure which it may see fit to adopt in its sole discretion.

Whenever any claim, demand, suit, or action is made or filed with or against the State in respect of an actual or alleged obligation

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611 N.P. Highway 288

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AGREEMENT OF TRANSFER

Between

TENNESSEE VALLEY AUTHORITY

And

UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE

Relating To

LANDS IN SWAIN COUNTY, NORTH CAROLINA

THIS AGREEMENT OF TRANSFER, made and entered into this 3d day of March, 1948, by and between TENNESSEE VALLEY AUTHORITY, a corporation organized and existing under and by virtue of an Act of Congress known as the Tennessee Valley Authority Act of 1933 (hereinafter called "TVA"), and UNITED STATES DEPARTMENT OF THE INTERIOR, for the use and benefit of the National Park Service of the United States Department of the Interior (hereinafter called "Department").

WITNESSETH:

That for the purposes and considerations expressed in an agreement made and entered into as of the 30th day of July 1943, by TVA, the Department, the State of North Carolina, and Swain County, North Carolina, said agreement being identified by Contract No. TV-30454, but subject to the approval of the President of the United States as provided by section 4(k)(e) of the Tennessee Valley Authority Act of 1933 as amended, TVA and the Department hereby covenant and agree as follows:

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1. TVA, subject to the conditions, exceptions and reservations hereinafter contained, hereby assigns and transfers to the Department for the use and benefit of the National Park Service as a part of the Great Smoky Mountains National Park the right of possession and control of and all other right, title, and interest which TVA may have in and to the following described lands: *

Approximately 44,170 acres of land situated on the north side of Fontana Reservoir, in Swain County, North Carolina, said land being particularly described in the schedule which is attached to and hereby made a part of this agreement as Appendix A, and being shown colored in cross-hatched yellow on Map 19 MS 453 K 505 R1 attached and made a part of this agreement as Appendix B.

2. In addition to the interests assigned and transferred under section 1, TVA shall and does hereby give and grant to the Department, its agents, servants, and invitees the right of access to and use of all lands of the United States in TVA's custody lying upstream from US TVA Corner 2-4A W.C. (the coordinates of which are N. 656,154 and E. 568,716) between the 1710 ft. contour of the non-insular land covered by said section 1 and low watermark on Fontana Lake, for the purpose of constructing and maintaining thereon boating and recreational facilities, piers, docks, and related equipment, and of performing all other acts which may be reasonably necessary to the administration and use, as a part of the Great Smoky Mountains National Park, of the lands TVA's interest in

which is assigned and transferred to the Department under section 1.

3. All of the interests and rights assigned, transferred, and granted by TVA to the Department under sections 1 and 2 hereof are assigned, transferred, and granted subject to:

(a) The following rights which are hereby expressly reserved to and retained by TVA for itself, its successors, and assigns: (1) the unrestricted right in perpetuity to make whatever changes may be necessary or desirable in facilities for the storage, use or distribution of water, and to construct, maintain, and operate such additional structures and facilities and carry on such activities as it may deem necessary to carry out its program of flood control, navigation, and incidental generation of power, as authorized by the Tennessee Valley Authority Act of 1933 as amended; (2) the right of ingress and egress at all times to and from any point; (3) the right to operate Fontana Reservoir and fluctuate the water level thereof at any time or to any height; (4) the right to enter upon any part of the land affected hereby and perform any acts which it may deem necessary for the furtherance of malaria control and shoreline sanitation, with due consideration being given to the National Park Service's program; (5) the right to maintain and operate any electric power transmission and distribution lines, telephone and telegraph lines, and water flumes and railways, and other facilities now located on said land, together with the right to construct, operate, and maintain such additional transmission, distribution, telephone and electric lines, water flumes and railways, and other facilities on said land as it may hereafter deem necessary for the exercise and accomplishment of its statutory powers and purposes; (6) the right at all times without limitation or restriction to flood, or to suffer, permit, agree upon or cause the flooding of, by the waters of any present or future reservoir located below Fontana Dam, any lands affected by this agreement located west of a line extending due north and south from the center of Fontana Dam, to an elevation of 1279 feet above mean sea level, and to flood or suffer, permit, agree upon or cause the flooding of said lands to such additional elevations as may result from wave action, floods, and other high water conditions; and (7) the right in its discretion to remove from the shore of any present or future reservoir located below Fontana Dam and the land under such reservoir and to destroy or otherwise dispose of silt, drift, timber, vegetation, and other matter, and to use said shore and land for such purposes and any other purpose reasonably connected with the maintenance and operation of such reservoir or the dam associated therewith, together with the right of ingress, egress, and regress for such purposes with tools, vehicles and equipment across any of the properties affected by this agreement. It is understood that any and all of the rights reserved under this subparagraph (a) may be exercised directly by TVA or by and through agents or contractors, and that TVA may grant to or permit the exercise by others of rights of the class or character described in subdivision (5) of this subparagraph, as well as the rights described in subdivisions (6) and (7) of

(Chg'd) J.

this subparagraph, either by agreement, sufferance, through execution and delivery of perpetual easements, or otherwise; provided, however, that any formal agreement, grant or permit concerning the exercise of such rights by others shall, at the time when made or issued, in TVA's judgment, have a relationship to its statutory program, purposes and objectives.

(b) To such rights of way and other rights, if any, which the Aluminum Company of America or its subsidiaries may be obligated under an agreement dated July 1, 1915, as amended by an agreement dated March 18, 1921, between the Aluminum Company of America, et al. and Southern Railway Company, et al., to grant and convey to Southern Railway Company, its successors, assigns, or nominees; and to rights of way of 150-foot width for any transmission lines of the Aluminum Company of America or its subsidiaries which may be constructed to interconnect its or their plants with the power system of TVA, the location of such rights of way to be mutually agreed upon between the Aluminum Company of America and TVA. The rights referred to in this subparagraph (b) are the same as those described in paragraphs 1 and 2 of Article III of Exhibit B to an agreement between TVA and the Aluminum Company of America dated August 14, 1941, recorded in the office of the Register of Deeds of Swain County, North Carolina, in Deed Book 63, page 398, et seq., and may affect TVA land tracts Nos. FR-17, 25, 27, 28, 29, 80, 82, 87, 88, 91, 92, 93, 96, 97, 98, 101, 103, 105, 106, 125, 127, 134, 138, 141, 142, 144, 147, 149, 150, 154, 156, 157, 158, 160, 161, 162, 163

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169, 170, 171, 172, 174, 175, 176, 177, 178, 179, 180, 248, 249, 250, 254, 258, 259, 260, 261, 262, 264, and 1293.

(c) To such exceptions and reservations contained in a deed from Carolina Aluminum Company to the United States of America dated December 17, 1943, recorded in the office of the Register of Deeds of Swain County, North Carolina, in Deed Book 68, page 270, et seq., as may affect TVA land tract No. FR-1255, including (1) such rights of way as may be vested in the State of North Carolina to State Highway 288; (2) such rights of way as may be vested in third parties to a telephone or telegraph line; (3) such burial rights in an existing cemetery and rights of ingress and egress in connection therewith as may now be outstanding in third parties; and (4) rights of way for transmission lines to be constructed by Carolina Aluminum Company or its associated companies to interconnect with the TVA power system.

(d) To such right of way interests as may be vested in the Southern Railway Company with respect to TVA land tracts Nos. FR-19, 179, 249, 250, 254, 259, 261, 262, 264 and 1293, and to a fee simple interest outstanding in the Southern Railway Company in TVA land tract No. FR-928, all of which interests are now in the process of acquisition by TVA in the name of the United States.

(e) To such rights or easements as were reserved to the Harris-Woodbury Lumber Company by deeds of record in Book 34, page 36; Book 44, pages 263 and 265; Book 46, page 306 and Book 49, pages 440, 466, 473, 475, and 567 in the Register's office of Swain County, North Carolina, affecting TVA land tracts Nos. FR-378, 1001, 1018, 1020, 1021, 1023, 1024, 1032, 1227, 1230, 1234, 1235, and 1292.

(f) To such burial rights and rights of ingress and egress in connection therewith as may be outstanding in third parties in TVA land tracts Nos. FR-494, 712, 1018, 1019, 1020, 1086, 1081, 1135, 1175, 1178, 1185, 1202, 1206, 1210, 1216, 1222, 1245, 1276, 1279, 1281, and 1282.

(g) To such rights as may be vested in the State of North Carolina and the public to rights of way for public roads, affecting TVA land tracts Nos. FR-17, 18, 25, 27, 88, 89, 80, 82, 87, 96, 101, 103, 301, 443, 445, 446, 452, 454, 456, 463, 465, 466, 467, 468, 470, 471, 478, 480, 484, 495, 496, 497, 506, 510, 515, 516, 517, 518, 547, 550, 556, 563, 566, 672, 711, 712, 713, 714, 721, 722, 723, 727, 728, 729, 730, 731, 750, 752, 894, 900, 901, 913, 1085, 1086, 1087, 1090, 1092, 1093, 1095, 1160, 1223, 1255, 1265, 1256, and 1253, all of which rights of way are now in the process of acquisition by TVA in the name of the United States. (FR-1018)(1279)
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(h) To such rights as may be vested in third parties to telephone and transmission line rights of way affecting TVA land tract No. FR-1253.

(i) To such water rights as may be outstanding in D. G. Fisher or his successors in title in TVA land tract No. FR-138 by virtue of his deed dated October 25, 1907, recorded in Deed Book 31, page 448, in the Register's office of Swain County, North Carolina.

(j) To the undivided 56/1440 interests each of Wallace O. Westfeldt and Jane Westfeldt Smith in tract FR-1349, which interests are in the process of acquisition by TVA in the name of the United States.

(k) To such rights as may be vested in third parties to minerals and mining rights in the TVA land tracts Nos. FR-29, 80, 106, 127, 128, 134, 141, 162, 163, 169, 170, 172, 174, 248, 249, 250, 254, 258, 264, 345, 379, 380, 446, 478, 490, 498, 502, 503, 506, 507, 508, 509, 510, 515, 560, 673, 675, 717, 719, 913, 1006, 1009, 1010, 1011, 1012, 1013, 1015, 1016, 1017, 1018, 1019, 1020, 1024, 1025, 1026, 1030, 1031, 1032, 1034, 1035, 1036, 1062, 1063, 1071, 1072, 1084, 1086, 1087, 1090, 1092, 1095, 1121, 1122, 1139, 1143, 1154, 1155, 1156, 1157, 1158, 1162, 1172, 1174, 1173, 1184, 1185, 1226, 1229, 1232, 1233, 1260, 1274, 1276, 1290, 1293, 1296, and 1302.

4. TVA in no way warrants the extent of its interest in the property assigned and transferred under section 1 hereof; provided, however, that any interest which may hereafter be acquired by TVA in and to any of said lands shall pass to Department, subject to the terms and conditions hereof, automatically and without the necessity of any new and separate transfers or assignments thereof; and provided further that, anything herein to the contrary notwithstanding, TVA shall and hereby agrees to indemnify the Department against and save it forever harmless from any obligations and liability and any loss, damage, or expense arising out of the claims and demands of, or the actual or threatened mining of said property or any part thereof by, any party or parties owning or holding title to any minerals contained in said land or owning or holding the right to mine any such minerals, it being the intention hereof that TVA shall at all times protect the Department from any interference with or restriction upon the Department's use of said lands for park purposes where such interference or restriction arises out of the exercise or assertion of outstanding mineral rights or interests. It is understood and agreed, however, that TVA shall

at all times have and exercise full control over the handling, defense, settlement, and disposition of all claims, demands, suits, and actions filed with or against the Department, TVA, or the United States based upon outstanding mineral rights or interests; that TVA may compromise, settle, or dispose of any and all such claims, demands, suits, and actions in any manner or by any method or procedure which it may see fit to adopt in its sole discretion; that the Department shall promptly notify TVA in writing concerning any such claims, demands, suits, or actions filed with or against the Department or the United States, and concerning any mining or threatened mining of any of said land by the holder of any mineral rights or interests therein; and that the Department shall not, except pursuant to judicial judgment or decree, pay, compromise, settle, or otherwise dispose of any such claim, demand, suit, or action without the written consent of TVA.

5. The Department agrees to administer and operate the lands, TVA's interest in which is transferred by section 1 hereof, as a part of the Great Smoky Mountains National Park in a manner designed to afford maximum watershed protection. None of said lands shall be resold or exchanged or opened to entry.

6. It is agreed that in the performance of any acts or functions or the exercise of any rights or privileges upon or affecting the land described in section 1 hereof, due consideration shall be given by each party to the rights, interests, and program of the other, it being the intention of the parties that they shall, by consultation and otherwise, at all times cooperate to the fullest possible extent in the promotion of their separate as well as their common interests with respect to said land,

and in the accomplishment of their respective programs and objectives in the area.

7. Nothing herein contained shall be construed to constitute a waiver of or compliance with any of the provisions of section 26a of the Tennessee Valley Authority Act of 1933, as amended, or to affect or limit in any way the powers and duties given to and imposed upon TVA by said section 26a.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers, the day and year first above written.

Approved by TVA
Board of Directors
MAR 3 1 1948
X.P.
ASSISTANT SECRETARY

TENNESSEE VALLEY AUTHORITY

By George F. Gant
General Manager

ATTEST:

Leona LeRoy
Assistant Secretary

UNITED STATES DEPARTMENT OF THE INTERIOR
JUN 1 0 1949

By J.A. Krug
Secretary

APPROVED:

HARRY S. TRUMAN
President of the United States

The White House

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FONTANA RESERVOIR AREA LAND PROPOSED FOR TRANSFER TO U. S. DEPARTMENT OF INTERIOR (NATIONAL PARK SERVICE)

A tract of land (except those parcels hereinafter excluded) lying in Forneys Creek and Charleston Townships of Swain County, State of North Carolina, on the north shore of Fontana Lake, between Mountain Branch (which is approximately 1-1/4 miles northwest of the northwest Corporation Line of Bryson City) and Twenty Mile Ridge; the said tract being bounded as follows:

BOUNDED ON THE NORTH AND WEST:

By the present boundary of the Great Smoky Mountains National Park;

BOUNDED ON THE EAST:

By the said park boundary and a line described as follows:

Beginning at an angle iron the coordinates of which are N. 660,608 and E. 668,571 at the intersection of the present boundary of the Great Smoky Mountains National Park and the top of the divide between Noland and Peachtree Creeks.

From the initial point easterly along the meanders of the top of the divide between Noland and Peachtree Creeks then southerly along the meanders of the top of the divide between Peachtree and Lands Creek along the following approximate bearings and distances,

S. 77° 42'., 620 ft.;
S. 6° 42' E., 570 ft.;
S. 34° 42' E., 2320 ft.;
S. 6° 42' E., 900 ft.;
S. 31° 18' W., 480 ft.;
S. 12° 18' W., 470 ft.;

S. 15° 42' E., 1150 ft.;

S. 30° 42' E., 820 ft.;

S. 28° 18' W., 560 ft.;

S. 2° 42' E., 300 ft.;

S. 39° 18' W., 570 ft.;

S. 6° 18' W., 350 ft.;

S. 6° 13' W., 350 ft.;

S. 25° 48' W., 465 ft.;

S. 59° 37' E., 305 ft.;

S. 83° 37' E., 405 ft. to a point the coordinates of which are N. 651,730 and E. 667,558;

Leaving the top of the divide, by bearings and distances,

S. 24° 19' W., 1948 ft. to a black oak stump;

S. 20° 32' E., 481 ft. to a 30 in. spanish oak tree the coordinates of which are N. 649,486 and E. 667,235 at the top of the divide between Peachtree and Lands Creeks;

Southwesterly along the meanders of the top of the divide along the following approximate bearings and distances,

S. 23° 54' E., 136 ft.;

S. 54° 55' W., 200 ft.;

S. 78° 00' W., 245 ft.;

S. 8° 41' W., 851 ft.;

S. 80° 35' W., 443 ft.;

S. 14° 35' W., 493 ft.;

S. 51° 35' W., 237 ft.;

N. 66° 25' W., 207 ft.;

S. 29° 08' W., 473 ft.;

S. 69° 05' W., 300 ft.;

S. 88° 37' W., 166 ft.;

N. 88° 41' W., 380 ft.;

S. 77° 15' W., 585 ft. to an 8 in. post oak tree;

Leaving the top of the divide, by bearings and distances,

S. 3° 39' E., 912 ft.;

S. 31° 31' W., 649 ft.;

S. 34° 57' E., 245 ft.;

S. 1° 16' E., 156 ft. to a 24 in. pine tree;

S. 11° 31' E., 476 ft. to a 10 in. chestnut tree;

N. 88° 08' E., 300 ft.;

N. 77° 43' E., 630 ft., crossing Lands Creek at 260 ft., more or less

S. 20° 53' W., 325 ft. to a 15 in. beech tree;

S. 57° 46' W., 262 ft. to an 18 in. maple tree the coordinates of which are N. 644,250 and E. 684,396 on the left bank of Lands Creek;

S. 32° 40' E., 403 ft.;

S. 23° 58' W., 434 ft.;

S. 65° 23' W., 132 ft.;

S. 30° 50' E., 361 ft. to the center of Mountain Branch;

Southwesterly downstream along the meanders of the center of the branch 975 ft., more or less, to the 1710 ft. contour on the north shore of Fontana Lake;

BOUNDED ON THE SOUTH:

By the north shore of Fontana Lake at elevation 1710 from the center of Mountain Branch to the north boundary of State Grant 1387 (which is the north boundary of a tract of land acquired by the Tennessee Valley Authority in the name of the United States of America from the Nantahala Power & Light Company under the designation of Tract No. FB-435); the intersection of the 1710 ft. contour and the north boundary of State shore of Fontana Lake in a northerly direction from Fontana Dam;

Thence by a line described as follows:

Beginning at the intersection of the 1710 ft. contour and the north boundary of State Grant 1387 from which US TVA Corner 2-4A W.C. (the coordinates of which are N. 656,154 and E. 559,718) bears N. 75° 30' W., 25 ft.

From the initial point (intersection of the 1710 ft. contour and the north boundary of State Grant 1387) by bearings and distances,

N. 75° 30' W., 322 ft., passing US TVA Corner 2-4A W.C. at 25 ft., to US TVA Corner 2-4;

S. 66° 30' W., 2590 ft., passing US TVA Corner 1-4 at 1372 ft., to US TVA Corner 1-3;

N. 29° 05' W., 250 ft. to US TVA Corner 1-2;

S. 2° 47' W., 1063 ft. to US TVA Corner 1-1 the coordinates of which are N. 654,026 and E. 565,461 at the intersection of the west boundary of a tract of land acquired by the Tennessee Valley Authority in the name of the United States of America from the Carolina Aluminum Company under the designation of Tract No. FD-16 and a line 150 ft. north of and parallel to the center of the access road to Fontana Dam;

Thence westerly along the meanders of the line 150 ft. north of and parallel to the center of the access road to Fontana Dam 3 miles, more or less, to the present boundary of the Great Smoky Mountains National Park at the top of Twenty Mile Ridge.

EXCEPTING AND EXCLUDING from the above-described tract three parcels of land owned by the North Carolina Exploration Company described as follo

Parcel 1

Those portions lying above elevation 1710 of a parcel of land described as follows:

Beginning at a point the coordinates of which are N. 671,005 and E. 584,997 at the intersection of the center of Pinnacle Creek and the present south boundary of the Great Smoky Mountain National Park.

From the initial point by bearings and distances,

N. 68° 54' E., along the park boundary, 440 ft., more or less, to the center of Pinnacle Creek;

Easterly upstream along the meanders of the center of the creek 560 ft., more or less, to the present south boundary of the Great Smoky Mountains National Park;

N. 68° 54' E., along the park boundary, 140 ft., more or less, to the center of Pinnacle Creek;

Easterly upstream along the meanders of the center of the creek 1560 ft., more or less;

S. 2° 56' W., 196 ft.;

S. 68° 13' E., 650 ft. to a point the coordinates of which are N. 671,306 and E. 588,194;

S. 27° 05' E., 2442 ft. to a dead 20 in. chestnut tree the coordinate of which are N. 669,132 and E. 589,306;

S. 78° 58' W., 3178 ft.;

S. 53° 58' W., 523 ft.;

S. 75° 58' W., 1659 ft.;

S. 32° 21' W., 358 ft. to a 22 in. hemlock tree;

S. 23° 49' W., 409 ft. to a pine stump;

S. 25° 18' W., 1116 ft.;

S. 81° 48' W., 688 ft.;

S. 8° 46' W., 642 ft., passing a 14 in. hemlock tree at 200 ft., to a stake;

S. 4° 17' W., 1876 ft. to a black oak stump;

S. 50° 48' W., 1179 ft. to an iron pin;

S. 25° 18' E., 576 ft. to an iron pipe;

N. 69° 01' E., 2126 ft. to a dogwood stump;

N. 27° 27' E., 1009 ft. to a 24 in. chestnut snag;

N. 78° 06' E., 1160 ft. to a chestnut stump at the top of Pinnacle Ridge;

S. 6° 01' W., 1671 ft.;

S. 85° 59' E., 767 ft. to a 36 in. oak tree the coordinates of which are N. 662,477 and E. 836,953 at the top of the divide between Hazel and Eagle Creeks;

Southerly along the meanders of the top of the divide along the following approximate bearings and distances:

S. 22° 37' W., 570 ft.;

S. 16° 23' E., 870 ft.;

N. 86° 23' W., 770 ft.;

S. 68° 37' W., 800 ft.;

S. 39° 37' W., 620 ft.;

S. 43° 37' W., 360 ft.;

N. 89° 23' W., 1130 ft.;

S. 22° 37' W., 420 ft.;

S. 61° 37' W., 320 ft., crossing a saddle at the head of Cable Branch

S. 37° 37' W., 400 ft.;

S. 73° 37' W., 260 ft.;

S. 28° 37' W., 560 ft.;

S. 0° 23' E., 750 ft.;

S. 5° 07' W., 1060 ft.;

S. 74° 37' W., 590 ft.;

S. 2° 37' W., 1830 ft.;

S. 45° 37' W., 400 ft.;

S. 57° 37' W., 515 ft.;

S. 50° 37' W., 370 ft.;

S. 39° 37' W., 360 ft.;

S. 41° 37' W., 200 ft.;

S. 3° 23' E., 350 ft.;

S. 2° 07' W., 300 ft. to a hub the coordinates of which are N. 652,942 and E. 379,516;

Leaving the top of the divide, by bearings and distances,

S. 54° 19' W., 2136 ft., crossing the 1710 ft. contour at 1815 ft., more or less;

N. 63° 12' W., 1084 ft. to the center of the former location of the channel of Myers Branch,

Southwesterly downstream along the meanders of the center of the former location of the channel of the branch 160 ft., more or less;

N. 86° 46' W., 244 ft.;

S. 35° 15' W., 70 ft. to the former location of the northeast right of way line of the Carolina and Tennessee Southern Railway;

Northwesterly along the former location of the right of way line 2390 ft., more or less;

N. 19° W., 215 ft. to a line 300 ft. north of and parallel to the former right bank of the Little Tennessee River;

N. 64° W., along the line 300 ft. north of and parallel to the former right bank of the Little Tennessee River, 90 ft., more or less, to Shuckstack Ridge;

Northerly along the meanders of the top of the ridge along the following approximate bearings and distances:

N. 47° W., 670 ft.;

N. 23° W., 430 ft. to the intersection of the 1710 ft. contour and the top of Shuckstack Ridge;

Continuing along the meanders of the top of the ridge along the following approximate bearings and distances;

N. 11° 50' W., 151 ft.;

N. 9° 10' E., 635 ft.;

N. 27° 50' W., 361 ft.;

N. 17° 10' E., 738 ft.;

N. 28° 50' W., 151 ft.;

N. 28° 10' E., 151 ft.;

N. 32° 50' W., 478 ft.;

N. 34° 10' W., 488 ft.;

N. 48° 50' W., 801 ft. to the center of State Highway 288;

Leaving the ridge, by bearings and distances,

N. 85° 34' E., 6686 ft.;

N. 84° 26' E., 5079 ft. to a chestnut stump and an iron pin the coordinates of which are N. 664,647 and E. 576,557;

N. 67° 15' E., 956 ft. to a stake;

N. 78° 01' E., 915 ft. to a point the coordinates of which are N. 665,250 and E. 578,657 in the center of Eagle Creek at the mouth of Lost Cove Branch;

Easterly upstream along the meanders of the center of Eagle Creek 6640 ft., more or less, to the mouth of Pinnacle Creek;

Northeasterly upstream along the meanders of the center of Pinnacle Creek 8500 ft., more or less, to the point of beginning. Except, therefrom, approximately 87 acres, lying within the boundaries of Parcel 1 which were not owned by the North Carolina Exploration Company and were acquired by the Tennessee Valley Authority in the name of the United States of America, the 87 acres being expressely included in this transfer and being described as follow s;

That portion lying above elevation 1710 of the following described tract of land:

Beginning at a 30 in. black oak tree the coordinates of which are N. 656,460 and E. 579, 629.

From the initial point by bearings and distances,

S. 11° 45' E., 276 ft. to a 10 in. dogwood stump;

S. 36° 02' W., 740 ft.;

S. 15° 02' W., 2103 ft. to a 20 in. oak tree from which the hub the coordinates of which are N. 653,942 and E. 579,516 in the boundary of Parcel 1 bears S. 51° 49' E., 1053 ft.;

S. 63° 21' W., 1568 ft., crossing the 1710 ft. contour at 1225, 1400 and 1450 ft., more or less;

S. 89° 51' W., 956 ft.;

N. 30° 51' E., 623 ft., crossing the 1710 ft. contour at 370 ft., more or less;

N. 50° 03' W., 321 ft.;

N. 24° 06' W., 415 ft., crossing the 1710 ft. contour at 260 ft., more or less;

N. 70° 34' E., 180 ft., crossing the 1710 ft. contour at 25 ft., more or less, to the northeast edge of State Highway 288;

S. 62° 36' E., 304 ft.;

N. 30° 15' E., 278 ft.;

S. 53° 22' E., 243 ft.;

N. 30° 51' E., 977 ft.;

N. 45° 51' E., 2708 ft. to the 30 in. black oak tree, the place of

Parcel 2

Beginning at a chestnut stump the coordinates of which are N. 671,225 and E. 590,773 from which the corner in the boundary of Parcel 1 the coordinates of which are N. 671,306 and E. 586,194 bears N. 88° 13' W., 2580 ft.

From the initial point by bearings and distances,

S. 88° 13' E., 2180 ft.;

S. 6° 38' W., 1331 ft.;

S. 82° 55' E., 985 ft. to a stake the coordinates of which are N. 669,712 and E. 593,786 at the top of Pinnacle Ridge;

Westerly along the meanders of the top of the ridge 2250 ft., more or less, to a point from which the point of beginning bears N. 21° 18' W., 2442 ft.;

N. 21° 18' W., 2442 ft. to the chestnut stump, the place of beginning.

Parcel 3

Beginning at a stake the coordinates of which are N. 667,865 and E. 589,582 at the top of Pinnacle Ridge from which the dead 20 in. chestnut tree (the coordinates of which are N. 669,132 and E. 589,306) in the boundary of Parcel 1 bears N. 12° 17' W., 1297 ft.

From the initial point by bearings and distances,

Southwesterly along the meanders of the top of the ridge 1400 ft., more or less;

S. 70° 57' W., 735 ft.;

S. 39° 08' W., 678 ft. to a stake the coordinates of which are N. 666,234 and E. 587,392 at the top of Pinnacle Ridge;

Southwesterly along the meanders of the top of ridge 2750 ft., more or less, to a 24 in. black oak tree;

N. 47° 46' W., 1312 ft. to a stake;

S. 66° 25' W., 860 ft.;

Senator **Bumpers**. Thank you, Senator Helms.

Let me just say at the outset for the benefit of the witnesses who are yet to testify. The one thing that seems to be in agreement in both bills—and that is, the $9 million and a half to Swain County—both bills are identical on that. And I would hope the witnesses would not dwell on that. If we can find the money, I think that that is certainly a legitimate request.

We had a similar situation in my State where we flooded a lot of area to build a lake down there. We were promised at the time there would be a bridge built to replace the road over the lake. It took us about 30 years to get the Government to keep its word on that. So, I am very sympathetic to some of the agreements that were made back when Fontana Lake was built. And certainly during markup we will take that into consideration.

Thank you very much, Senator Helms.

Senator **Helms**. Can't ask for any more than that, Mr. Chairman. And I thank you for the privilege of being here. Thank you, Senator Hecht.

Senator **Bumpers**. Is Senator Sanford here or Senator Sasser?

[No response.]

Senator **Bumpers**. Is Jamie Clarke, Congressman Clarke here?

Our next witness will be Hon. James McClure Clarke. I thought one Jim McClure was enough. Jamie, welcome, and we will be most anxious to hear from you.

STATEMENT OF HON. JAMES McCLURE CLARKE, A U.S. REPRESENTATIVE FROM THE STATE OF NORTH CAROLINA

Mr. **Clarke**. Thank you very much, Senator Bumpers. It's a privilege to be here to speak this morning on behalf of S. 693.

I am pleased to add my support to that of Senator Terry Sanford, Senator Sasser, and Senator Gore for the Great Smoky Mountains Wilderness Act. This bill is long overdue. I have introduced similar legislation, H.R. 1495, on the House side.

S. 693 makes the majority of the Great Smoky Mountains Park, the most heavily visited park in the Nation, a wilderness area. In effect, this puts present management practices into law.

The bill does another important thing. In 1943 the Secretary of the Interior made a commitment to Swain County. The commitment was to Swain County, not to any other group, which had lost more than two-thirds of its land to the Smoky Park to build a road from the Fontana Dam area to Bryson City through land to be acquired from the county for the park. But this road was never built.

Now the Swain County commissioners, at least one of whom is here today, have agreed unanimously to accept a cash settlement in lieu of the road. The settlement will be invested and used as a permanent source of income for the county. Annual revenue from the county's property tax is only about $630,000, not even enough to build an elementary school, to say nothing of other much needed facilities.

The bill excludes from wilderness all presently developed areas including Newfound Gap Road, known as U.S. Highway 441, which goes from Gatlinburg, TN, through the park, to Cherokee in western North Carolina. There will be no restriction on motorboat operation on Fontana Lake. The traditional practice of herb gathering and berry picking by the Cherokees will be honored.

There will be provisions in the bill and the report requiring continuation of the present system of taking family members by boat and motorized vehicle to visit the graves of their ancestors in the north shore area on Decoration Day and at other times. The National Park Service will continue to give these cemeteries annual maintenance.

The bill does not provide for construction of a 26 mile road over extremely difficult terrain from Bryson City to the old cemeteries. The minimum cost of such a road, as referred to by Senator Helms, would be more than $2 million. And the annual maintenance expense is estimated by the Park Service at $200,000. Such a road would not only be very expensive at a time of huge budget deficits, but it would also be environmentally damaging because of the type of rock involved and the steepness of the terrain.

The Great Smoky Mountains Wilderness Act, S. 693, has the support of representatives and senators on both sides of the park. It is strongly supported by all the Swain County Commissioners, all the Jackson County Commissioners, the Bryson City Board of Aldermen, and by many other civic and environmental groups. It protects the presently developed areas inside the park and both states.

It is time we gave this great park the full protection it needs and that we give Swain County the compensation it deserves for giving up the road across the park that was promised by the Secretary of Interior but never built.

I urge your support for S. 693, and ask that my statement be made a part of the record.

Senator Bumpers. So ordered.

[The prepared statement of Mr. Clarke follows:]

JAMES McCLURE CLARKE
11TH DISTRICT, NORTH CAROLINA
COMMITTEE ON INTERIOR AND
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STATEMENT OF
THE HONORABLE JAMES MCCLURE CLARKE
OF NORTH CAROLINA
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
June 23, 1987

Mr. Chairman, I am pleased to be here today to add my support to that of Senators Terry Sanford, Jim Sasser and Albert Gore for the Great Smoky Mountains Wilderness Act. This bill is long overdue. I have introduced similar legislation, H.R. 1495, on the House side.

S. 693 makes the majority of the Great Smoky Mountains Park - the most heavily visited Park in the entire National Park system - a wilderness area. In effect this simply puts present management practice into law.

S. 693 does another important thing. In 1943 the Secretary of Interior made a commitment to Swain County, North Carolina, which had lost more than half of its land area to the Smoky Park, to build a road from the Fontana Dam area to Bryson City, through land to be acquired from the county for the Park. But this road was never built in the years that followed.

Now the Swain County Commissioners, at least one of whom is here today, have agreed unanimously to accept a cash settlement in lieu of the road. This settlement, which will be invested and used as a permanent source of income for the county, is very badly needed. Annual revenue from the county's property tax is only about $630,000 - not enough to build even an elementary school, to say nothing of other much needed facilities.

The bill excludes from wilderness all presently "developed" areas including Newfound Gap Road, commonly known as U. S. Highway 441, which goes from Gatlinburg, Tennessee through the Park to Cherokee in Western North Carolina. There will be no restriction on motorboat operation on Fontana Lake. The traditional practice of herb-gathering and berry-picking by the Cherokee people in the Park will be honored.

There will be provisions in the bill and the accompanying report requiring continuation of the present system of taking family members by boat and motorized vehicle to visit the graves of their ancestors in the North Shore area on Decoration Day and at other times. The National Park Service will continue to give these cemeteries annual maintenance.

The bill does not provide for construction of a 26 mile road over extremely difficult terrain from Bryson City to the old cemeteries. The minimum cost of such a road would be more than $2 million, and the annual maintenance expense would be $200,000. Such a road would not only be very expensive at a time of budget deficits, but it would also be environmentally damaging because of the type of rock involved and the steepness of the terrain.

The Great Smoky Mountains Wilderness Act has the support of Representatives and Senators on both sides of the Park. It is strongly supported by all the Swain County Commissioners, the Bryson City Board of Aldermen, and by many other civic and environmental groups. It protects the presently developed areas inside the Park in both states. It is time that we gave this great Park the full protection that it needs and that we gave Swain County the compensation it deserves for giving up the road across the Park that was promised by the Secretary of Interior but never built.

I urge your support for S. 693.

Senator BUMPERS. Congressman Clarke, let me ask you one question. Your bill, as well as S. 693, contains a forgiveness of a Farmers Home loan that was secured many years ago to build a new high school. What is the rationale for that?

Mr. CLARKE. What's the amount of that?

Senator BUMPERS. No. What is the rationale for us forgiving a loan?

Mr. CLARKE. Well, Swain County is just so hard-up. I guess that's the rationale.

Senator BUMPERS. We ought to do it?

Mr. CLARKE. Yes, that's the rationale. The Swain County superintendent——

Senator BUMPERS. How much is that loan incidentally? It doesn't say.

Mr. CLARKE. May I ask the superintendent of the Swain County schools to give us the amount of that loan?

About $1.6 million. It's an FHA loan.

Senator BUMPERS. Jamie, thank you very much for your testimony.

Before you leave, one other thing. Do you consider the $9½ million full settlement of all claims written, oral or otherwise that the county of Swain might have against the U.S. Government?

Mr. CLARKE. In view of all that has transpired and the time that has passed, I do.

Senator BUMPERS. Thank you very much for coming over to be with us today.

Mr. CLARKE. Thank you very much, Senator.

Senator BUMPERS. Has Senator Sasser shown up yet?

Senator SASSER. Yes. I'm here, Senator Bumpers.

Senator BUMPERS. Well, you were so inconspicuous. I am sorry I missed you.

Senator Sasser, thank you for coming. You will be with us this morning. And you're one of the chief authors of S. 693. And we are anxious to hear your statement.

STATEMENT OF HON. JAMES R. SASSER, A U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator SASSER. Thank you, Mr. Chairman, and I want to thank you for holding these hearings this morning. I believe that it is crucial that we consider as expeditiously as possible the legislation designating the Smoky Mountains National Park as wilderness. This hearing is a clear signal that you, Mr. Chairman, recognize the urgency of the question at hand, and I wish to commend you for it.

Frankly, I must say to you this morning, Mr. Chairman, that we have waited far too long for final and complete preservation of the Great Smoky Mountains National Park.

This is an issue that really should cut across state lines, across ideologies, and across party lines. There should be a consensus of the Smoky's designation because in my judgment there is a consensus on the basic facts. I don't really want to burden the record this morning with information that everybody already has, but I do think it is pertinent for those who may not have been to the Great Smoky Mountains National Park that we understand what we're talking about here today.

It is beyond dispute that the Great Smoky Mountains National Park is one of the Nation's most valuable resources. It contains more than a half million acres of forest. And of that half million acres, about 25 percent is virgin woods. Every year over 8 million people from all across this country visit this national park. They come for camping, for swimming, for canoeing, for fishing, for hunting, for hiking. And the Smokies are literally matchless for these opportunities that it offers. It is the most visited national park in the country.

But it is far more than that. It is part of our national and cultural heritage. The Appalachian Trail winds for 70 miles from the southern portion of the park to the northern border. There are 16 mountain peaks rising above 6,000 feet. There are 150 species of trees, and over 1,400 species of plants, more than in any other national park in the country, and more, I might add, Mr. Chairman, than in all of Europe.

There are nearly 400 animal species ranging from the black bear to the pygmy shrew. I must confess to you, Mr. Chairman, I have never seen a pygmy shrew, but I have seen photographs of them. And these animal species include a wide variety of fish, reptiles, amphibians, and over 200 species of resident and migratory birds.

I know I don't have to draw this committee a picture, but as I said at the outset, we all should know the basic facts. We are dealing here with a natural resource that is literally beyond any estimate of value, at least in dollars and cents. It is far more than a primary recreational resource of a few states. It is part of the very fabric of life from the southeastern part of the country, and it's a priceless part of the fabric of this entire Nation.

I think we can all agree on what the Great Smokies are, Mr. Chairman, and what they represent. We should also be able to agree on our duty to protect a natural legacy that our forefathers passed down to us. We have a responsibility to preserve the Great Smokies National Park in its totality and as a whole. We should not—indeed, we dare not—permit a part of the park to be chipped off here, a part there, a few thousand acres to go unprotected here, and a few thousand to go unprotected there.

Mr. Chairman, the bill that I am cosponsoring along with others designates 467 acres of the Smokies as wilderness, thereby protecting approximately 90 percent of the park. Included in our bill are provisions for the settlement of a longstanding dispute regarding access to the land and grave sites above Fontana Lake. This is a conflict that has persisted since 1943. We have included language to preserve the rights of those individuals who have family members buried in the park.

In addition, our bill would authorize a $9 million and a half payment to Swain County as a settlement of all outstanding debts and claims by Swain County against the Federal Government. This provision would compensate for a road that, although promised many years ago, has proven to be economically and environmentally unfeasible.

And finally, certain rights-of-way and maintenance practices have been requested by the Tennessee Valley Authority. These concerns are addressed in amendments submitted by the TVA. I would stress that all activities performed by TVA within the park would be in direct cooperation with the Park Service.

In short, Mr. Chairman, this bill aims at accommodating all of the individual claims upon the park, but it does so within the context of a larger purpose, a larger principle. That principle is the imperative need to preserve our most precious natural resources in a comprehensive fashion. In my judgment stopping short of a full and consistent adherence to that principle will establish a potentially damaging precedent.

I firmly believe that the other legislation that is being considered today fails to protect the integrity of the park. But far worse, it opens precisely the kind of loophole that serious wilderness legislation must close as tightly as possible. If we were to set off 44,000 acres for development now, what is there to prevent us from breaking off another block here and another block there?

Won't those who wish to exploit rather than the preserve our natural resources be encouraged by this exception to come back again to offer new proposals for developing wilderness lands, to offer new economic reasons for pushing back the boundary line? And we can always find those.

Mr. Chairman, my colleague, Senator Gore, and the distinguished junior Senator from North Carolina, Mr. Sanford, and I strongly believe that we must say forcefully right now the line is drawn. Beyond the boundaries clearly established in this bill, there will be no further intrusion on the Great Smokies National Park.

So, Mr. Chairman, I urge your committee to act decisively on this issue. I thank you for this opportunity to discuss a matter that is of great importance not only to me but to my constituents in Tennessee, indeed a matter of substantial importance I think to all Americans who are interested in preserving the heritage of our natural resources.

Mr. Chairman, I have additional testimony from the Governor of Tennessee which I would ask to submit for the record. I also have other interested parties who wish to submit testimony, which I would ask leave to submit for the record.

Senator BUMPERS. So ordered.

Senator SASSER. I see I am joined here now by our distinguished colleague from North Carolina, Mr. Sanford. And I welcome his support and I have enjoyed very much working together with him in the preparation of this legislation.

I thank you, Mr. Chairman.

[The prepared statement of Senator Sasser, Senator Gore, and Governor McWherter follow:]

STATEMENT OF SENATOR JIM SASSER
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
JUNE 23, 1987

MR. CHAIRMAN:

I WANT TO THANK YOU FOR HOLDING THESE HEARINGS. I BELIEVE IT'S CRUCIAL THAT WE CONSIDER, AS EXPEDITIOUSLY AS POSSIBLE, THE LEGISLATION DESIGNATING THE SMOKY MOUNTAINS NATIONAL PARK AS WILDERNESS. I THINK THAT THIS HEARING IS A CLEAR SIGNAL THAT YOU RECOGNIZE THE URGENCY OF THE QUESTION AT HAND, AND I COMMEND YOU FOR IT.

FRANKLY, MR. CHAIRMAN, WE HAVE WAITED FAR TOO LONG FOR FINAL AND COMPLETE PRESERVATION OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK.

THIS IS AN ISSUE THAT REALLY SHOULD CUT ACROSS STATE LINES, ACROSS IDEOLOGIES, ACROSS PARTY LINES. THERE SHOULD BE CONSENSUS ON THE SMOKIES DESIGNATION BECAUSE, IN MY JUDGMENT, THERE IS CONSENSUS ON THE BASIC FACTS.

I DON'T REALLY WANT TO BURDEN THE RECORD WITH INFORMATION THAT EVERYONE ALREADY HAS. BUT I DO THINK IT'S PERTINENT, FOR THOSE WHO MAY NOT HAVE BEEN TO THE GREAT SMOKY MOUNTAIN NATIONAL PARK, THAT WE UNDERSTAND WHAT WE'RE TALKING ABOUT TODAY.

IT'S BEYOND DISPUTE THAT THE GREAT SMOKY MOUNTAIN NATIONAL PARK IS ONE OF THE NATION'S MOST VALUABLE RESOURCES. IT CONTAINS MORE THAN 500,000 ACRES OF FOREST. OF THAT HALF MILLION ACRES, ABOUT 25 PERCENT IS VIRGIN WOODS.

EVERY YEAR, 8 MILLION PEOPLE FROM ALL OVER THE COUNTRY VISIT THE PARK. FOR CAMPING, FOR SWIMMING AND CANOEING, FOR FISHING, HUNTING AND HIKING, THE SMOKIES ARE LITERALLY MATCHLESS.

IT'S THE MOST VISITED PARK IN THE COUNTRY. BUT IT'S FAR MORE THAN THAT. IT'S A PART OF OUR NATURAL AND CULTURAL HERITAGE. THE APPALACHIAN TRAIL WINDS FOR 70 MILES FROM ITS SOUTHERN TO ITS NORTHERN BORDER. THERE ARE 16 MOUNTAIN PEAKS RISING ABOVE 6,000 FEET. THERE ARE SOME 150 SPECIES OF TREES AND OVER 1,400 SPECIES OF PLANTS--MORE THAN IN ANY OTHER NATIONAL PARK AND MORE THAN IN ALL OF EUROPE.

THERE ARE NEARLY 400 ANIMAL SPECIES, RANGING FROM THE BLACK BEAR TO THE PYGMY SHREW, INCLUDING A WIDE VARIETY OF FISH, REPTILES, AMPHIBIANS, AND OVER 200 SPECIES OF RESIDENT AND MIGRATORY BIRDS.

MR. CHAIRMAN, I KNOW I DON'T HAVE TO DRAW YOU A PICTURE. AS I SAID AT THE OUTSET, WE ALL KNOW THE BASIC FACTS.

WE'RE DEALING HERE WITH A NATURAL RESOURCE THAT IS LITERALLY BEYOND ANY ESTIMATE OF VALUE-AT LEAST IN DOLLARS AND CENTS. IT IS FAR MORE THAN THE PRIMARY RECREATIONAL RESOURCE OF A FEW STATES, THOUGH IT IS INDEED THAT.

IT IS PART OF THE VERY FABRIC OF LIFE IN THE SOUTHEASTERN PART OF THE COUNTRY . . . AND IT IS A PRICELESS PART OF THE FABRIC OF THIS ENTIRE NATION.

AGAIN, I THINK WE CAN ALL AGREE ON WHAT THE GREAT SMOKIES ARE AND ON WHAT THEY REPRESENT.

WE SHOULD ALSO BE ABLE TO AGREE ON OUR DUTY TO PROTECT A NATURAL LEGACY THAT OUR FOREFATHERS PASSED DOWN TO US.

WE HAVE A RESPONSIBILITY TO PRESERVE THE GREAT SMOKIES NATIONAL PARK--IN ITS TOTALITY AND AS A WHOLE. WE SHOULD NOT, INDEED WE DARE NOT, PERMIT A PART OF THE PARK TO BE CHIPPED OFF HERE, A FEW THOUSAND ACRES TO GO UNPROTECTED THERE.

MR. CHAIRMAN, OUR BILL DESIGNATES 467,00 ACRES OF THE SMOKIES AS WILDERNESS, THEREBY PROTECTING APPROXIMATELY 90% OF THE PARK. INCLUDED IN OUR BILL ARE PROVISIONS FOR THE SETTLEMENT OF A LONG-STANDING DISPUTE REGARDING ACCESS TO THE LAND AND GRAVESITES ABOVE FONTANA LAKE.

THIS IS A CONFLICT THAT HAS PERSISTED SINCE 1943, AND WE HAVE INCLUDED LANGUAGE THAT PRESERVE THE RIGHTS OF THOSE INDIVIDUALS WHO HAVE FAMILY MEMBERS BURIED IN THE PARK.

IN ADDITION, OUR BILL WOULD AUTHORIZE A $9.5 MILLION PAYMENT TO SWAIN COUNTY AS A SETTLEMENT OF ALL OUTSTANDING DEBTS AND CLAIMS BY SWAIN COUNTY AGAINST THE FEDERAL GOVERNMENT.

THIS PROVISION WOULD COMPENSATE FOR A ROAD THAT, ALTHOUGH PROMISED MANY YEARS AGO, HAS PROVEN TO BE ECONOMICALLY AND ENVIRONMENTALLY UNFEASIBLE.

FINALLY, CERTAIN RIGHTS OF WAY AND MAINTENANCE PRACTICES HAVE BEEN REQUESTED BY THE TENNESSEE VALLEY AUTHORITY. THESE CONCERNS ARE ADDRESSED IN AMENDMENTS SUBMITTED BY TVA. I WOULD STRESS THAT ALL ACTIVITIES PERFORMED BY TVA WITHIN THE PARK WOULD BE IN DIRECT COOPERATION WITH THE PARK SERVICE.

IN SHORT, MR. CHAIRMAN, THIS BILL AIMS AT ACCOMODATING ALL THE INDIVIDUAL CLAIMS OF GROUPS UPON THE PARK, BUT IT DOES SO WITHIN THE CONTEXT OF A LARGER PURPOSE--A LARGER PRINCIPLE.

THAT PRINCIPLE IS THE IMPERATIVE NEED TO PRESERVE OUR MOST PRECIOUS NATURAL RESOURCES AS COMPREHENSIVELY AS WE CAN.

IN MY JUDGMENT, STOPPING SHORT OF A FULL AND CONSISTENT ADHERENCE TO THAT PRINCIPLE WILL ESTABLISH A POTENTIALLY DAMAGING PRECEDENT.

I FIRMLY BELIEVE THAT THE OTHER LEGISLATION THAT'S BEING CONSIDERED TODAY FAILS TO PROTECT THE INTEGRITY IN THE PARK. BUT FAR WORSE, IT OPENS PRECISELY THE KIND OF LOOP-HOLE THAT SERIOUS WILDERNESS LEGISLATION MUST CLOSE AS TIGHTLY AS POSSIBLE.

IF WE SET OFF 44,000 ACRES FOR DEVELOPMENT NOW, WHAT IS THERE TO PREVENT US FROM BREAKING OFF ANOTHER BLOCK HERE AND ANOTHER BLOCK THERE?

WON'T THOSE WHO WISH TO EXPLOIT RATHER THAN PRESERVE OUR NATURAL RESOURCES BE ENCOURAGED BY THIS EXCEPTION TO COME BACK AGAIN? . . . TO OFFER NEW PROPOSALS FOR DEVELOPING WILDERNESS LANDS? . . .NEW ECONOMIC REASONS FOR PUSHING BACK THE BOUNDARY LINE?

MR. CHAIRMAN, SENATORS GORE, SANFORD, AND I BELIEVE STRONGLY THAT WE MUST SAY FORCEFULLY, RIGHT NOW: THE LINE IS DRAWN.

BEYOND THE BOUNDARIES CLEARLY ESTABLISHED IN THIS BILL, THERE WILL BE NO FURTHER INTRUSION ON THE GREAT SMOKIES NATIONAL PARK.

MR. CHAIRMAN, I URGE THIS COMMITTEE TO ACT DECISIVELY ON THIS ISSUE, AND I THANK YOU AGAIN FOR THIS OPPORTUNITY TO ADDRESS A MATTER THAT'S OF SUCH GREAT IMPORTANCE NOT ONLY TO MY CONSTITUENTS IN TENNESSEE, BUT TO ALL AMERICANS.

MR. CHAIRMAN, I HAVE ADDITIONAL TESTIMONY FROM THE GOVERNOR OF TENNESSEE, AS WELL AS OTHER INTERESTED PARTIES WHICH I PLAN TO SUBMIT FOR THE RECORD.

# # #

ALBERT GORE, JR
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GREAT SMOKY MOUNTAINS WILDERNESS ACT

STATEMENT OF SENATOR ALBERT GORE, JR.

June 23, 1987

Albert Gore Jr.

Mr. Chairman, I appreciate this opportunity to address the subcommittee and urge the approval of S. 693, the "Great Smoky Mountains Wilderness Act." This legislation has been delayed in its adoption, but is necessary for the protection not only of the 467,000 acres directly affected, but also for the entire Great Smoky Mountains National Park. I commend my colleague and friend, the senior Senator from Tennessee (Mr. Sasser), for his years of work on this issue, and I thank my friend from North Carolina (Mr. Sanford) for his co-sponsorship of this important bill.

The need for this legislation can be understood more fully when the history of this magnificent park is considered. The Great Smokies represented a new direction in national park policy in the 1920's. The 18 national parks then in existence in the West had been created from lands already owned by the Federal government. In the Great Smoky Mountains, the lands authorized for park purchase beginning in 1926 were all in private ownership in more than 6,600 tracts. The lion's share was owned by 18 timber and pulpwood companies, but 1,200 other tracts were farms. There were also more than 5,000 lots and summer homes. Many of these had been won in promotion schemes, and their owners had never bothered to pay taxes on them. This created an awesome land acquisition headache.

The Federal government would not purchase land for national parks in those days, so in 1927 the Tennessee and North Carolina legislatures each provided for appropriations of $2 million to purchase the land. The John D. Rockefeller family supplemented the fund drive with a $5 million donation. This was considered one of the biggest and most important accomplishments of the entire national park movement. Eventually, the two states purchased the needed lands and donated them to the Federal government.

It took years to finish the job of acquisition. Despite the tremendous impact of human land use in the Smokies, however, about 15 to 20 percent of the park's 520,269 acres constitutes the East's most extensive virgin forest. Forest recovery is well underway throughout the park despite the former blight left by destructive logging practices, subsequent forest fires, overhunting, overfishing, overgrazing, and landslides and other forms of erosion. Now, about 60 years after the establishment of the park, wilderness is again in the ascendancy.

So the legislation being considered today is a natural step in the progress of the Great Smoky Mountains National Park. S. 693 would set aside most of the park as wilderness area. This long has been advocated by environmentalists, foresters, community leaders, park officials, and citizens who know and love this park. And it is very important to note that this bill will not result in major changes in the administration of the park. It will designate as wilderness those lands classified as such in the January, 1982, General Management Plan for the Great Smoky Mountains National Park. So this bill would serve to protect the way the park is already being run.

Mr. Chairman, the Great Smoky Mountains National Park is not only an immensely popular tourist attraction, it is an unique national asset which merits preservation. Acres of wilderness in the eastern half of the United States are few in number and dwindling. I view this bill as an opportunity to protect this park and its resources, including plant and animal life found nowhere else. No substitute which would reduce the amount of acreage to be protected, permit commercialization or exploitation, or allow any use of property within the boundaries in a manner inconsistent with the role of the park as a natural biosphere would be acceptable to this Senator, nor should such proposals be considered. I strongly urge adoption of this legislation as written.

Mr. Chairman, once again I thank the subcommittee for its consideration, and I ask permission that a resolution from the Great Smoky Mountain park Commission of the State of Tennessee be included in the record of these hearings.

TESTIMONY OF

NED R. McWHERTER

GOVERNOR

STATE OF TENNESSEE

S.693

THE GREAT SMOKY MOUNTAINS

WILDERNESS ACT

PRESENTED TO

UNITED STATES SENATE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON PUBLIC LANDS

THE HONORABLE DALE BUMPERS, CHAIRMAN

JUNE 23, 1987

On behalf of the citizens of Tennessee, I am pleased to support S.693. This legislation would designate approximately 467,000 acres in the Great Smoky Mountains National Park as an addition to the National Wilderness Preservation System.

Unlike many of our sister states in the West, there are relatively few state or privately owned tracts of land in Tennessee that qualify as true "wilderness." Tennessee is blessed with sizable areas of pristine rural landscape. Nearly all of these lands, however, are currently managed for purposes other than wilderness protection.

The Great Smoky Mountains represent by far the best opportunity in Tennessee to strengthen the nation's commitment to wilderness protection. Over the past decade Tennesseans have supported efforts by the Congress to designate portions of the Cherokee National Forest as a wilderness area. Working together, the state and federal governments have protected nearly 66,000 acres.

I cite this example to illustrate the importance of the opportunity offered by the Great Smoky Mountains. The wilderness areas contained within the Cherokee National Forest are small tracts, ranging in size from about 3,000 acres to 17,000 acres, scattered throughout the 623,000 acres of the entire national forest. In contrast, the Great Smoky Mountains offer the unique chance to protect a large undivided natural landscape for the enjoyment of Americans for generations to come.

While sensitive to the need for development of some areas located near the Great Smoky Mountains Park, I am convinced that the protection of the lands contained in S.693 are critical to Tennessee's efforts to balance the region's recreational and environmental needs. I appreciate the Subcommittee's consideration of this important matter.

Senator BUMPERS. Thank you, Senator Sasser. It's a very fine statement. We appreciate this legislation that you and Senator Gore and Senator Sanford have offered. And it is, as you appropriately pointed out, past time to resolve this age-old dispute, and I feel sure that this will be placed on the markup calendar at a very early time. And your testimony will be of invaluable assistance to us in reaching a decision.

With that—incidentally, Senator Sasser, you are welcome to stay for Senator Sanford's testimony. I know you have pressing business elsewhere, so feel free to leave.

Senator Sanford, we are most anxious to receive your testimony this morning.

STATEMENT OF HON. TERRY SANFORD, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator SANFORD. Thank you very much, Mr. Chairman. I appreciate the opportunity. I appreciate the consideration of the committee in putting this on for hearing in an extremely crowded schedule.

But indeed, it is something that we have been delaying for well more than 40 years. As a matter of fact, when I was Governor in the early 1960s, this was a matter of grave concern to the people of Swain County. And at that time I said that if the county commissioners agreed on a course of action, I would support that course of action. And while I was in office, there was no such agreement.

But now they have come back. They have agreed. They have developed, as best as I can observe, a broad consensus for their plan in Swain County, and consequently I think now is the time for solving this once and for all.

With your permission, I would like to put into the record written testimony, and then make a few informal comments.

Senator BUMPERS. We would welcome that, Senator Sanford.

Senator SANFORD. There is no question about the value of the national park, no question about—in my mind—the excellent job that the Park Service has done for the Great Smoky Mountains National Park. It is one of the top attractions, and they have preserved it and would continue to preserve it.

The question gets down to building a road and declaring part of the park not quite what the rest of it is, taking away a part of what otherwise would be preserved in keeping with the Park Service's approach. But they will speak to that.

What I wanted to speak to specifically was the position of Swain County, and the people of Swain County, and the needs of the people of Swain County where we have one of the highest unemployment rates in North Carolina, in part because the Federal Government owns 84 percent of the land. And acquiring that land at a time when the people there were very cooperative—they were promised a great many things. A number of those haven't been delivered.

Now they have worked out a settlement consisting of something that will do far more good for the children and the county in the future than building a road, a payment of compensation which has been spelled out in the bill, which is a very reasonable settlement.

And it seems to me that this gives us an opportunity now to do on behalf of the national government what should have been done long ago to fulfill the obligation of the national government to the people of Swain County and to do something in a creative way for the people, and at the same time to protect the park as so many people want to protect it.

Now, the people of Swain County are concerned with the settlement. The people of America are concerned with the proper conservation of the Great Smoky Mountains Park. I think this bill would accomplish both, and I thank my colleague, Senator Sasser, for taking the initiative; my colleague in the House from North Carolina, Congressman Clarke, for his promotion of this. And I thank you very much for giving us an opportunity to present our evidence.

[The prepared statement of Senator Sanford follows:]

TESTIMONY BY U.S. SENATOR TERRY SANFORD SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Chairman, I want to express my appreciation to you and to the members and staff of the Subcommittee on Public Lands, National Parks, and Forests both for holding these important hearings and for the opportunity to testify here today.

Along with my distinguished friends and colleagues, Senator Jim Sasser and Senator Albert Gore, I have sponsored S.693, the Great Smoky Mountains Wilderness Act of 1987. The passage of this bill would accomplish two important objectives: it would ensure the protection of a true jewel in the crown of the Eastern United States-- our Great Smoky Mountains National Park-- and it would make good on a very old promise that the Federal Government has made to the people of Swain County.

My good friend, Congressman Jamie Clarke, has introduced similar legislation in the House of Representatives, and I am very pleased that Congressman Clarke has agreed to testify here today. I am also pleased that my able colleague and friend, Senator Jesse Helms, has shown his active interest in this issue today, although of course we differ on the specifics of how to achieve a solution.

The Great Smoky Mountains Park is a truly unique resource that has long been a source of immense pride to citizens of North Carolina and Tennessee alike. The Park was created some fifty-three years ago in recognition of the outstanding value of its natural resources. Today it consists of over half a million acres of virtually unspoiled mountain beauty.

Many of the highest peaks in the Eastern United States can be found within the Great Smokies Park-- mountains higher than the Grand Canyon is deep. And these rugged mountains and valleys are well-known not just for spectacular vistas, but also for a unique and diverse wildlife population that includes some 400 species of animals and nearly 1,500 species of plants.

For these reasons, the Great Smoky Mountains Park has become by far and away the most popular National Park in the entire United States. Some eight and a half million people took advantage of the many experiences the Park has to offer last year-- more than twice as many people as visited any other National Park.

Mr. Chairman, these eight and a half million visitors are not drawn to the Park by manmade attractions. They are drawn by the Park itself. The Great Smoky Mountains National Park is one of the top attractions in the United States because its beauty surpasses anything that men can make. And I am pleased that S.693 would protect for all generations some 467,000 acres of the Great Smokies Park through designation as permanent wilderness, and thus ensure that the resources we have been blessed with in this area remain unspoiled.

While the Federal Government deserves praise for its foresight in setting aside these lands for the benefit of all Americans, its treatment of Swain County in regard to the so-called 1943 agreement can only be described as a matter of shame. Mr. Chairman, the people of Swain County are a good, harworking people who take great pride in their mountains and their country. They willingly gave up thousands of acres in the 1940s so that Fontana Lake could be built. Our nation was at war, and we needed more electricity in support of the war effort. One important part of the people of Swain County's willingness to give up some 44,000 acres of the county was an agreement under which the Federal Government was to build a road along the North Shore of the lake, to replace one that was flooded.

Well, Mr. Chairman, that North Shore road has never been built. It was started, but never completed-- and the result was what every Western North Carolinian today knows as the "Road to Nowhere".

There are very good reasons why that road was never built. Most Western North Carolinians know what they are, and you will be hearing a good deal about them today. But what Western North Carolinans can't understand, Mr. Chairman, is why the people of Swain County have never received just and fair compensation for the loss of that road. When the government makes a promise, it ought to keep it. Well, now we have found a way for the Government to finally make good on its word.

The North Shore road in 1987 would be an extremely poor investment. Not only would such a project be vastly expensive, with monetary costs alone greatly outweighing benefits of limited usage, but it was also result in very serious adverse impact to the natural resources of the county. Sloughing and slumping would scar the natural beauty of the area, acidic runoff would destroy local water, and wildlife habitat would be further reduced.

But we have found a way to replace that road with a very good investment-- an investment in the children of Swain County. By paying compensation for the present value of the road, as determined by the Secretary of the Interior in 1980, we can provide the county with a much-needed source of revenue that will be used for the most part to benefit its schools.

Mr. Chairman, Swain County has one of the highest unemployment rates in North Carolina. And the County Government has a difficult time making ends meet, in part because the Federal Government owns some 84% of its land. You will be hearing more about this from representatives of Swain County who are here today. The building of a North Shore road would do nothing to address these problems. But by providing just and fair compensation, as provided for in S.693, we can ensure that the County has a perpetual source of funding to meet the present and future needs of its people.

This settlement should consist of the payment of $9.5 million to Swain County , as well as the retirement of a $1.6 million Farmers Home Administration loan, as provided for in the bill. And the bill ensures that the money must be spent in a responsible manner. I urge the Subcommittee to support the settlement of the 1943 agreement as provided for in S.693.

Although a North Shore road cannot and should not be built, I recognize the special needs of the several hundred North Carolinians with regard to visitation of the North Shore cemeteries. These citizens will be guranteed perpetual access to the cemeteries as provided for by the National Parks Service in the 1982 Great Smoky Mountains National Park Management Plan. The Parks Service should transport such persons to and from the cemeteries in Parks Sevice vehicles in a safe, timely, and comfortable manner.

I would also like to address, for the record, a number of misconceptions about the bill that have occasionally been heard. First of all, the bill will not change the current useage of any areas-- it will simply preclude the possibility of any improper development in the future. All areas that will be declared wilderness are currently being managed as such, and have been for some time.

Supporters of this bill are not against further development in the vicinity of the Smokies. In fact, we hope that the area will continue to attract new growth. But such development must be done responsibly, and must certainly occur adjacent to and not within these areas of the Park.

The bill will not affect any current usages of Fontana Lake. No "buffer zones" adjacent to wilderness will or should be created. Traditional herb-gathering rights of the Cherokee Indians will be preserved. And the status of Newfound Gap Road will not be changed by the bill.

Mr. Chairman, I thank you for your interest in the Great Smoky Mountains Park, and the people of Swain County. I am optimistic that we can achieve the twin goals of honoring and protecting the Park through this wilderness designation, and meeting the needs of Swain County by settling the 1943 Agreement.

Senator BUMPERS. Senator Sanford, thank you very much for that testimony.

Let me just ask you a couple of questions. One is the $9 million, as I have previously pointed out, is incorporated under both bills—$9½ million to be paid to Swain County. The director of the Park Service, Bill Mott, who will testify later this morning, said that that is based on a cost of $1.3 million that Swain County used to build the original road, which was a little over 2 miles that they agreed to build—the Government was going to build the rest of it—and that they acquired the right-of-way, barred of $1.3 million for 40 years to pay for that. And the $9½ million reflects the compounding of that amount of money. Is that correct?

Senator SANFORD. That's my understanding. Both sides were satisfied with the accounting methods used to arrive at that figure.

Senator BUMPERS. Well, as I pointed out, if we can find the money, I think that will be the first order of business, that Swain County will be reimbursed. They're entitled to it. They had an agreement.

I wonder if they have ever paid those bonds off. They were 40 year bonds. I wonder if the county is still paying on it. Do you know that?

Senator SANFORD. The chairman will be here and can answer that question.

Senator BUMPERS. That's fine.

I should have asked the question of a previous witness, but can you tell me just what is the rationale for excluding that 47,000? You can see on this map over here, the lower part of the park there. I was wondering what the rationale for excluding that 47,000 acres is.

The difference between S. 693 and S. 695 is 47,000 acres there roughly. Is that not right? The big difference is a part there that was Swain County, and you see that light stripe through there? The dark part both bills agree on. It is that light striped part down at the bottom part of the park there in what would be called the southwestern part of the park that is——

Senator SANFORD. I think that is where the cemetery is.

Senator BUMPERS. How many cemeteries are there in that area? Is there more than one?

Senator SANFORD. I think that there is essentially one cemetery. There may be a few scattered graves. I better let——

Senator BUMPERS. I tell you. We will not belabor that because others will testify to that. I think there is more than one. But be that as it may——

Senator SANFORD. I know there were 17 trips made last year by the Park Service taking people to the site or sites.

Senator BUMPERS. Seventeen trips?

Senator SANFORD. And so there is—I'm not sure whether it was one or more.

Senator BUMPERS. I'm advised by staff there may be hundreds of cemeteries in there.

Senator SANFORD. Well, I'm not sure. Not in what we're talking about. This was a cemetery, as I have been told, that at the time of the construction was a cemetery of a great many people, or it served a great many people that lived in that section of Swain County that ultimately was covered by the lake.

The Park Service offered to move the graves of those families that wanted the graves moved to one of the other cemeteries. These are the remaining ones. Whether or not they're all consolidated, I do not know.

Senator BUMPERS. Senator Sanford, thank you very much for being a coauthor of this bill. And we are happy to receive your testimony this morning. This will go on the markup calendar I'm sure very shortly.

Senator SANFORD. Thank you so very much.

Senator BUMPERS. Thank you.

Our next witness this morning will be William Penn Mott, Director of the National Park Service. Is Mr. Mott here yet? He is not here. Will he be here? OK.

Then we will proceed with our first panel, which is this looks like Mercedith Bacon, Commissioner, Swain County; Dr. James Causby, Superintendent of Schools in Bryson City; Ed Israel, North Carolina National Parks, Parkways and Forests Development Council; Karen Rodriquez, Nantahala Outdoor Center; and Robert Smythe, Conservation Director, North Carolina Chapter of the Sierra Club.

Now, at this point we will start using our stop watch. So, please observe the lights. When it turns red, cease and desist.

Thank you all very much for being with us this morning. We look forward to hearing from you. Our first witness—how do you pronounce that? Mercedith?

Ms. BACON. It is "merc" as in mercy, and "edith" as in Edith, Mercedith.

Senator BUMPERS. Mercedith.

Ms. BACON. Righto.

Senator BUMPERS. That is certainly a new one on me, Ms. Bacon.

Ms. BACON. It is for most people.

Senator BUMPERS. In any event we are pleased to have you here, and please proceed with your testimony.

STATEMENT OF MERCEDITH BACON, SWAIN COUNTY COMMISSIONER, BRYSON CITY, NC

Ms. BACON. Thank you, Mr. Chairman.

Mr. Chairman and members of this committee, it is indeed an honor and a privilege to appear before this distinguished body today. I am Mercedith Bacon, Swain County Commissioner.

We unanimously support Senate bill 693. And we appreciate the opportunity to express our feelings and position today.

I am a Swain County native and I was born in the heart of that 44,000 acre tract under question. My parents and my grandparents and all of my other relatives were born and raised in that area. They sold their land and moved out with other people. Little did they realize then that this isolated birthplace, a log cabin teetering on the mountain slope, would in subsequent years become a bargaining chip that would attract the interest of this Nation. Had they been armed with that information, they might have held out for more money in those days.

Most of the residents there, including my family, sold their land willingly. For the unwilling participants, land was condemned and taken. And therein lies the seeds of the controversy today.

So that you can better understand our position as commissioners, I have included a chronology of the events from 1943 to the present. This chronology is attached to my remarks, and I ask that it be made a part of the permanent record along with a broader statement of my own and of written testimony from other people and organizations in Swain County.

Senate bill 693 represents what we believe to be a very workable compromise settlement that has a reasonable chance of passage in both the House and the Senate because it addresses the concerns and needs of many different and competing groups that have a vested interest in its outcome yet represents concessions from all.

The majority of Swain County citizens prefer a cash settlement to this road. Commissioners remind this committee, Mr. Chairman, that the original agreement was entered into by Swain County Commissioners, and we remain the only legal entity which should negotiate a settlement on behalf of the county.

The North Shore Cemetery Association was not formed until some 33 years after the 1943 agreement was signed by commissioners. And it is the only Swain County organization that has expressed opposition to this bill.

The real need for an access highway to Fontana was greatly diminished when a highway was built on the south shore of the Fontana Lake in 1959. We have consented to the inclusion of the 44,000 acres for wilderness designation to help insure passage of the bill. We believe the bill will not have adequate support without such designation. This compromise was influenced by our failure to achieve resolution of this conflict for the past 44 years in spite of documented efforts, which I am attaching.

We recognize the environmental dangers also and the overwhelming opposition to further road construction. I refer to a letter to Swain County Commissioners dated May 6, 1980, from Secretary, Department of the Interior, Cecil Andrus, who stated: "The National Park Service does not intend to complete the road because of the environmental damage that would result."

Swain County does not feel that it can afford the luxury of another fruitless battle over this road. We do not want to belabor the point, Mr. Chairman, but Swain County is not seeking a gift or an handout from the Government, but a just and reasonable compensation that satisfies a moral and a contractual obligation of the Federal Government.

Eighty-four percent of our land is in the hands of tax exempt entities such as the National Park, TVA, Cherokee Indian Reservation, Nantahala National Forest and the Blue Ridge Parkway. We get only $650,000 a year in ad valorem taxes in Swain County. Federal ownership of our county has eroded our tax base, severely limiting our county's financial ability to provide adequate, basic services, educational facilities and essential infrastructure to attract industry and promote economic development so badly needed to alleviate persistently high unemployment conditions, the second highest in North Carolina.

This settlement will provide interest which can substitute for the county's lost tax base and enhance its potential to provide those needed services. The settlement provides the U.S. Government also an opportunity to rectify an injustice done to Swain County.

Distinguished members of this subcommittee, we urge your favorable consideration of Senate bill 693. We thank you for your time and attention and action to bring resolution and closure to a controversy that has traumatized, immobilized and divided Swain County, and has created an unhealthy and unfortunate undercurrent of ill will and mistrust toward the Federal Government manifested by a negative attitude toward the Great Smoky Mountains National Park which our own forefathers and mothers carved out of their own heritage for the whole country to enjoy.

Senator BUMPERS. Commissioner Bacon, I am most reluctant to interrupt you, but if we don't stay within the 5 minutes, we won't finish the hearing. And I know you want the hearing finished so you can get your $9½ million.

Ms. BACON. Thank you.

Senator BUMPERS. The best way to do that is to make sure that all the witnesses have a chance to speak—we are required to adjourn at a certain time. And I want to make sure everybody testifies.

Ms. BACON. Thank you.

[The prepared statement of Ms. Bacon follows:]

TO SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS
AND FORESTS OF THE ENERGY AND NATURAL RESOURCES
COMMITTEE

RE: -

S2681

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE:

IT IS INDEED AN HONOR AND A PRIVILEGE TO APPEAR BEFORE THIS DISTINGUISHED BODY TODAY.

I AM [illegible] BACON, ONE OF THREE COUNTY COMMISSIONERS FROM SWAIN COUNTY, BRYSON CITY, NORTH CAROLINA, WHO UNANIMOUSLY SUPPORT SENATE BILL [illegible] 695 INTRODUCED BY SENATORS TERRY SANFORD, OF NORTH CAROLINA, JAMES SASSER AND ALBERT GORE OF TENNESSEE.

I HAVE STATEMENTS FROM THE OTHER TWO COMMISSIONERS AS WELL AS STATEMENTS FROM CITIZENS AND ORGANIZATIONS IN SWAIN COUNTY WHICH I WANT TO PRESENT TO YOU TODAY IN SUPPORT OF THIS BILL.

ON BEHALF OF THE PEOPLE OF SWAIN COUNTY AND THE SWAIN COUNTY COMMISSIONERS, WE WANT YOU TO KNOW THAT WE APPRACIATE THIS OPPORTUNITY TO EXPRESS OUR FEELINGS AND POSITION ARISING FROM AN AGREEMENT DATED JULY 30, 1943, BETWEEN SWAIN COUNTY, THE DEPARTMENT OF THE INTERIOR, NORTH CAROLINA, AND THE TENNESSEE VALLEY AUTHORITY TO CONSTRUCT A ROAD ALONG THE NORTH SHORE OF FONTANA RESERVIOR TO REPLACE A ROAD FLOODED BY THE CONSTRUCTION OF FONTANA DAM AND THE FILLING OF THE RESERVIOR TO THE EASTERN BOUNDARY OF THE 44,000 ACRE TRACT ADDITION TO THE GREAT SMOKY MOUNTAINS NATIONAL PARK.

I AM A SWAIN COUNTY NATIVE, BORN IN THE HEART OF THAT 44,000 ACRE TRACT OF LAND IN A SMALL VILLAGE CALLED BUSHNELL. MY PARENTS AND GRANDPARENTS ON BOTH SIDES, AND MANY OTHER RELATIVES CAME FROM THIS AREA OF THE MOUNTAINS. THEY SOLD THEIR LAND AND HOMES TO THE TENNESSEE VALLEY AUTHORITY, PACKED THEIR BAGS AND MOVED OUT IN A SPIRIT OF COOPERATION ALONG WITH MANY OTHER INDIVIDUALS AND FAMILIES WHO DEEDED THEIR LANDS WITHIN THE 44,000 ACRE TRACT BECAUSE IT WOULD BECOME ISOLATED WHEN THE RISING WATERS OF FONTANA RESERVIOR COVERED

THE ONLY ROAD INTO THE AREA, N.C. 288, FORCING RELOCATION. LATER THE TENNESSEE VALLEY AUTHORITY DONATED THIS TRACT OF LAND TO THE NATIONAL PARK WHICH OWNS IT TODAY. MOST RESIDENTS SOLD THEIR LAND WILLINGLY. HOWEVER FOR UNWILLING PARTICIPANTS, LAND WAS CONDEMNED AND TAKEN. SOME DESCENDANTS OF THOSE UNWILLING PARTICIPANTS STRENUOUSLY OBJECT TO THE GOVERNMENTS FAILURE TO ABIDE BY ITS PROMISE TO CONSTRUCT A ROAD.

IF THE SENATE AND HOUSE SUBCOMMITTEE WILL GIVE A FAVORABLE REPORT OF SENATE BILL 693 AND HR 1495 AND SUPPORT THEIR PASSAGE IN THE SENATE AND HOUSE, IT WILL BE THE FIRST SUCCESS STORY IN A CONTROVERSY THAT HAS DIVIDED OUR SMALL COUNTY FOR 44 YEARS. CITIZENS OF SWAIN COUNTY HAVE FELT YEARS OF FRUSTRATION RESULTING IN AN ATTITUDE OF SUSPICION, MISTRUST, AND ANGER TOWARD A GOVERNMENT UNABLE OR UNWILLING TO ACT IN GOOD FAITH TOWARD SWAIN COUNTY. THE POWER TO FULFILL A BROKEN COMMITMENT LIES IN YOUR HANDS TODAY. SWAIN COUNTY'S FUTURE ECONOMIC WELL BEING IS ALSO IN YOUR HANDS. SO THAT YOU CAN BETTER UNDERSTAND OUR POSITION AS COMMISSIONERS, I HAVE INCLUDED A CHRONOLOGY OF EVENTS FROM 1943 TO THE PRESENT. THIS CHRONOLOGY IS ATTACHED TO MY REMARKS, BUT, WILL NOT BE READ TODAY IN THE INTEREST OF TIME AND BECAUSE NUMEROUS REFERENCES TO THESE SPECIFIC EVENTS WILL BE MADE THROUGHOUT THESE HEARINGS.

SB 693 AND HR 1495 REPRESENT A WORKABLE COMPROMISE SETTLEMENT THAT HAS A REASONABLE CHANCE OF PASSAGE IN BOTH THE UNITED STATES HOUSE AND SENATE BECAUSE THEY ADDRESS THE CONCERNS AND NEEDS OF MANY DIFFERENT AND COMPETING GROUPS THAT HAVE A VESTED INTEREST IN THEIR OUTCOME. YET, REPRESENT CONCESSIONS MADE ON THE PART OF ALL INTERESTED PARTIES IN A GOOD FAITH ATTEMPT TO BRING CLOSURE TO A LONG STANDING CONTROVERSY.

WE, AS ELECTED OFFICIALS, FEEL THAT THE MAJORITY OF SWAIN COUNTY CITIZENS PREFER SB 693 AND HR 1495 AND REMIND THIS COMMITTEE THAT THE ORIGINAL AGREEMENT WAS ENTERED INTO BY COMMISSIONERS WHO REMAIN THE ONLY LEGAL ENTITY WHICH CAN NEGOTIATE A SETTLEMENT ON BEHALF OF THE PEOPLE WE REPRESENT.

OUR CONCERN FOR PASSAGE OF SB 693 AND HR 1495 TO BRING CLOSURE DOES NOT PREJUDICE US AGAINST ANY SPECIFIC INTEREST GROUPS. THE NORTH SHORE CEMETERY ASSOCIATION WAS NOT FORMED UNTIL SOME 33 YEARS AFTER THE 1943 AGREEMENT WAS SIGNED BY COMMISSIONERS OF SWAIN COUNTY. THE NORTH SHORE CEMETERY ASSOCIATION IS THE ONLY ORGANIZATION THAT HAS EXPRESSED OPPOSITION TO THE SWAIN COUNTY COMMISSIONERS ON THE CLARKE-SANFORD-SASSER BILLS. THE VAST MAJORITY OF SWAIN COUNTY CITIZENS HAVE EXPRESSED THEIR WILLINGNESS TO ACCEPT A REASONABLE, FAIR, AND JUST MONETARY SETTLEMENT IN LIEU OF A ROAD WHICH THE GOVERNMENT CONTRACTED TO BUILD IN 1943.

WITHIN OUR COUNTY, VERY STRONG OPINIONS ARE VOICED FROM TIME TO TIME ON THE ISSUES OF ROAD AND WILDERNESS DESIGNATION. SOME FEEL THE 44,000 ACRES SHOULD BE RETURNED TO SWAIN COUNTY OR EVEN TO THE INDIVIDUALS WHO SOLD IT TO TVA. SOME OPPOSE ALL WILDERNESS DESIGNATION FOR THE PARK. SOME AGREE THAT PART OF THE PARK SHOULD BE PLACED IN WILDERNESS. OTHERS FEEL THAT THE ENTIRE PARK SHOULD BE PLACED IN WILDERNESS. SOME FEEL THAT NO ROADS SHOULD BE BUILT. OTHERS FEEL NO OBJECTION TO MANY ROADS BEING BUILT IN THE PARK. THE CEMETERY ASSOCIATION HAS COME FROM A POSITION OF DEMANDING THAT THE GOVERNMENT BUILD THE ORIGINAL NORTH SHORE ROAD TO ONE OF SETTLING FOR A PRIMITIVE TYPE ROAD WHICH WOULD ACCESS CEMETERIES IN THE AREA. UNTIL RECENT YEARS, YOU COULDN'T FIND ANYONE IN SWAIN COUNTY WHO WOULD HAVE BEEN WILLING TO COMPROMISE ON ANY OF THESE ISSUES.

A CASH SETTLEMENT WAS REPUGNANT WHEN IT WAS FIRST OFFERED AND STILL IS TO A FEW. HOWEVER, AS THE YEARS WENT BY, AND THE PROSPECTS OF GETTING A ROAD BECAME MORE REMOTE, ALTERNATE OPTIONS IN LIEU OF A ROAD WERE EXPLORED. THESE OPTIONS ARE OUTLINED IN THE CHRONOLOGY ATTACHED.

THE PROPOSED $9.5 MILLION CASH SETTLEMENT WAS A NEGOTIATED AMOUNT ARRIVED AT ON NOVEMBER 28, 1980, BETWEEN ALL PARTIES TO THE ORIGINAL CONTRACT AND WAS SIGNED BY CECIL ANDRUS, THEN SECRETARY OF THE DEPARTMENT OF INTERIOR, AND WAS BASED UPON THE VALUE OF THE FLOODED ROAD IN 1940 AT 1.3 MILLION DOLLARS AND COMPOUNDED ANNUALLY AT

FIVE PERCENT. IF YOU FIGURE SWAIN COUNTY'S POTENTIAL LOST REVENUE SINCE 1980, YOU WILL FIND THAT SWAIN COUNTY HAS BEEN DEPRIVED OF ABOUT $7 MILLION DOLLARS IN INTEREST AND DEBT RELIEF BY OUR INABILITY TO SETTLE THIS MATTER.

TO SETTLE ANY FEARS THAT THE MONIES MAY BE MISUSED, THE BILLS PROVIDE THAT THE CASH SETTLEMENT BE DEPOSITED IN AN ACCOUNT IN ACCORDNACE WITH ALL RULES AND REGULATIONS ESTABLISHED BY THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION. THE PRINCIPAL OF THE CASH SETTLEMENT CAN ONLY BE EXPENDED BY AN AFFIRMATIVE VOTE OF TWO-THIRDS OF THE REGISTERED VOTERS OF SWAIN COUNTY WHILE INTEREST EARNED ON THE CASH SETTLEMENT CAN BE EXPENDED BY A MAJORITY VOTE OF SWAIN COUNTY'S DULY ELECTED COMMISSIONERS.

OCCASIONALLY, CONCERNS ARE RAISED ABOUT THE PERCENTAGE ATTORNEYS WILL RECEIVE FROM THE PROCEEDS OF THE SETTLEMENT. LANGUAGE RESTRICTING ATTORNEY FEES IN A PREVIOUS BILL IN NO WAY COMMITS SWAIN COUNTY TO THE PAYMENT OF LARGE ATTORNEY FEES OR COMMISSIONS. NO PERCENTAGE OF THE CASH SETTLEMENT WILL BE PAID TO ATTORNEYS AND WE DO NOT ANTICIPATE THAT ANY PORTION OF THIS SETTLEMENT WILL BE SPENT ON ATTORNEY FEES.

WE BELEIVE THAT MISREPRESENTATIONS OF THE INTENT OF THIS AND OTHER LANGUAGE OF WHAT WILDERNESS DESIGNATION MEANS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK CLOUDS THE ISSUES AND FURTHER COMPLICATES WHAT IS ALREADY A COMPLEX AND MULTIFACETED PROBLEM. THESE ATTEMPTS TO DISTORT ARE UNFORTUNATE AND NEED TO BE ADDRESSED.

SWAIN COUNTY HAS CONSENTED TO THE INCLUSION OF THE 44,000 ACRE TRACT FOR WILDERNESS DESIGNATION TO INSURE PASSAGE OF SB 693 AND HR 1495. WE BELIEVE NEITHER BILL WILL HAVE ADEQUATE SUPPORT TO INSURE PASSAGE WITHOUT SUCH DESIGNATION. THIS COMPROMISE WAS INFLUENCED BY OUR FAILURE TO ACHIEVE RESOLUTION OF THE CONFLICT FOR FORTY-FOUR YEARS, IN SPITE OF PERSISTENT EFFORTS.

THE 1943 AGREEMENT CALLED FOR A ROAD TO LINK BRYSON CITY WITH

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FONTANA. THE REAL NEED FOR AN ACCESS HIGHWAY TO FONTANA WAS GREATLY DIMINISHED WHEN A HIGHWAY WAS BUILT ON THE SOUTH SHORE OF THE FONTANA LAKE IN 1959. HOWEVER, THE WISH FOR A ROAD TO ACCESS CEMETERIES IN THE 44,000 ACRES REMAINED. THE PUBLIC DESIRE FOR SUCH A ROAD WAS STRONG INDEED FOR MANY YEARS. THERE REMAINS A REMNANT WHO STILL FEEL STRONGLY THAT A ROAD SHOULD BE BUILT. YOU WILL UNDOUBTEDLY HEAR FROM THAT HIGHLY VOCAL REMNANT DURING THESE HEARINGS. IT IS MY PERSONAL PERCEPTION THAT THE DESIRE FOR A ROAD TO THE 44,000 ACRE TRACT IS BASED UPON A DESIRE TO ACCESS FOR 3 REASONS:

1. CEMETERY VISITATION
2. A NOSTALGIC VISIT TO DECENDANTS "ROOTS"
3. THE MAJESTIC BEAUTY AND ISOLATION OF AN AREA ONCE INHABITED BY ANCESTORS OF LOCAL RESIDENTS.

IT IS A FACT THAT MANY PEOPLE IN SWAIN COUNTY FEEL THAT AN ACCESS ROAD TO THE 44,000 ACRE TRACT WOULD BE WONDERFUL. MANY PEOPLE HAVE DIFFICULTY BELIEVING THAT AN ACCESS ROAD WOULD VIOLATE ANY WILDERNESS QUALITIES. SINCE MANY RESIDENTS OF SWAIN COUNTY WERE BORN AND RAISED WITHIN THE 44,000 ACRE TRACT, AND VIEW THAT AS BEING NO DIFFERENT FROM THE REST OF THE MOUNTAINS THEY INHABIT EXCEPT THAT IT IS NOW OWNED BY THE NATIONAL PARK AND NOT BY INDIVIDUALS SINCE 1943.

THERE IS A WIDESPREAD BELIEF AMONG LOCAL CITIZENS THAT ENVIRONMENTAL CONCERNS COULD BE OVERCOME IF THE ROAD WERE BUILT IN A CAREFULLY ENGINEERED MANNER RELYING ON THE LATEST METHODS OF MODERN TECHNOLOGY TO OVERCOME ENVIRONMENTAL CONCERNS. WE, AS COUNTY COMMISSIONERS, ARE CONVINCED THAT SUCH AN ACCESS ROAD IS NOT GOING TO BE BUILT. WE HAVE BEEN TOLD SO REPEATEDLY FOR MANY YEARS. WE RECOGNIZE THE ENVIRONMENTAL DANGERS AND THAT OVERWHELMING OPPOSITION EXISTS TO ANY KIND OF ROAD. I REFER TO A LETTER TO SWAIN COUNTY COMMISSIONERS FROM THE SECRETARY OF THE DEPARTMENT OF INTERIOR, CECIL ANDRUS, WHO STATED, "THE NATIONAL PARK SERVICE DOES NOT INTEND TO COMPLETE THE ROAD BECAUSE OF THE ENVIRONMENTAL DAMAGE THAT WOULD RESULT".

SIX MONTHS FOLLOWING THIS PRONOUNCEMENT SWAIN COUNTY ACCEPTED THE REALITY THAT NO ROAD WOULD BE BUILT. THE COMMISSIONERS ACCEPTED THE POSITION THAT A CASH SETTLEMENT WAS BETTER THAN NOTHING AND A NEGOTIATED SETTLEMENT OF $9.5 MILLION WAS REACHED. NOT ONLY IS A CASH SETTLEMENT BETTER THAN NOTHING, IT IS WORTH $9.5 MILLION DOLLARS TO SWAIN COUNTY, WHICH DESPERATELY NEEDS THE ADDITIONAL INCOME THAT WOULD BE GAINED FROM INVESTING A LUMP SUM PAYMENT.

AS COMMISSIONER, I WOULD LIKE TO EMPHASIZE THAT EIGHTY-FOUR PERCENT GOVERNMENT OWNERSHIP OF LANDS IN SWAIN COUNTY HAS CREATED A LOW TAX BASE AND HIGH UNEMPLOYMENT. SWAIN COUNTY DOES NOT FEEL THAT IT CAN AFFORD THE LUXURY OF ANOTHER FRUITLESS BATTLE OVER THE ROAD. OUR PEOPLE MADE SACRIFICES WILLINGLY TO ASSIST IN THE WORLD WAR II EFFORT AND TO CREATE A NATIONAL PARK. THEY ARE LOYAL AND PATRIOTIC PEOPLE, BUT SOME HAVE BECOME DISILLUSIONED BY THE FAILURE OF THE FEDERAL GOVERNMENT TO HONOR, NOT JUST A PROMISE, BUT, ITS MORAL AND LEGAL COMMITMENT TO SWAIN COUNTY FOR 44 YEARS.

THE CASH SETTLEMENT WOULD GIVE SWAIN COUNTY $9.5 MILLION DOLLARS PLUS CANCELLATION OF A SCHOOL BOND INDEBTEDNESS OF $1.6 MILLION DOLLARS WHICH WOULD RELIEVE SWAIN COUNTY OF PAYING AN ANNUAL PAYMENT OF 130,500 TO FARMERS HOME ADMINISTRATION.

SWAIN COUNTY WILL SURVIVE WHETHER OR NOT THE UNITED STATES HONORS IT'S COMMITMENT, HOWEVER, THE QUALITY OF LIFE FOR OUR PEOPLE WILL NOT BE THE SAME. WITH INCOME FROM THE SETTLEMENT, SWAIN COUNTY CAN STRENGTHEN IT'S ECONOMIC BASE, CONSTRUCT NEW AND BADLY NEEDED SCHOOL FACILITIES AND EXPAND AND UPGRADE OUR ENTIRE EDUCATIONAL PROGRAM. SWAIN COUNTY HAS ONLY ONE DECENT SCHOOL FACILITY; OUR HIGH SCHOOL. THE OTHER FACILITIES ARE LITERALLY CRUMBLING DOWN AROUND OUR CHILDRENS HEADS. ONE ENTIRE FLOOR AT BRYSON CITY ELEMENTARY SCHOOL, CONSTRUCTED IN 1922, IS CONDEMNED.

YOU MAY JUSTIFIABLY ASK, "WHY DON'T YOU RAISE TAXES TO MEET YOUR NEEDS?" THE PROBLEM IS THAT A 16% TAXABLE LAND BASE PRODUCES ONLY $630,000 DOLLARS ANNUALLY IN LAND TAX FOR SWAIN COUNTY. IF WE DOUBLED OUR TAXES, WE WOULD STILL PRODUCE ONLY TWICE THAT AMOUNT $1,260,000. YOU CAN READILY APPRECIATE THE FOLLY OF THAT SOLUTION. IT WOULD PLACE

AN UREASONABLE BURDEN ON TAX PAYERS AND MAKE IT IMPOSSIBLE FOR MANY TO PAY THEIR TAXES. SWAIN COUNTY IS NOT SEEKING A GIFT OR HAND-OUT FROM THE FEDERAL GOVERNMENT, BUT, A JUST AND REASONABLE COMPENSATION THAT SATISFIES A MORAL AND CONTRACTURAL OBLIGATION OF THE FEDERAL GOVERNMENT TO SWAIN COUNTY. SINCE 84% OF THE COUNTY'S LAND IS IN THE HANDS OF TAX-EXEMPT ENTITIES SUCH AS THE NATIONAL PARK SERVICE, T.V.A., CHEROKEE INDIAN RESERVATION,AND NANTAHALA NATIONAL FOREST, FEDERAL OWNERSHIP OF SWAIN COUNTY HAS ERODED OUR TAX BASE, SEVERLY LIMITINGOUR COUNTY'S FINANCIAL CAPACITY TO PROVIDE ADEQUATE BASIC SERVICES, EDUCATIONAL FACILITIES AND ESSENTIAL INFRASTRUCTURE TO ATTRACT INDUSTRY AND PROMOTE ECONOMIC DEVELOPMENT SO BADLY NEEDED TO ALLEVIATE PERSISTENTLY HIGH UNEMPLOYMENT CONDITIONS, THE SECOND HIGHEST IN NORTH CAROLINA.

THIS SETTLEMENT WILL PROVIDE INTEREST WHICH CAN SUBSTITUTE FOR THE COUNTY'S LOST TAX BASE AND ENHANCE ITS POTENTIAL TO PROVIDE NEEDED SERVICES. THE SETTLEMENT PROVIDES THE U.S. GOVERNMENT AN OPPORTUNITY TO RECTIFY AN INJUSTICE TO SWAIN COUNTY. NUMEROUS ATTEMPTS HAVE BEEN MADE BY SWAIN COUNTY COMMISSIONERS DURING THE PAST 44 YEARS TO ACHIEVE AN EQUITABLE RESOLUTION OF THE ORIGINAL AGREEMENT. ONCE AGAIN, WE COME BEFORE YOU TO URGE YOUR FAVORABLE CONSIDERATION OF SB 693 AND HR 1495 WHICH CONTAIN LANGUAGE SUPPORTING THE FOLLOWING PRIORITIES OF SWAIN COUNTY COMMISSIONERS:

1. A $9.5 MILLION DOLLAR CASH SETTLEMENT AND FORGIVENESS OF THE F.H.A. SCHOOL BOND INDEBTNESS WITHOUT THIS WE WOULD NOT BE ABLE TO SUPPORT THIS OR ANY OTHER LEGISLATION. TO INSURE THAT SWAIN COUNTY IS PAID, PAYMENT OF $9.5 MILLION IS A PREREQUISITE TO ANY LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK COMING UNDER PROTECTION OF THE WILDNERNESS ACT OF 1964.
2. AS A MINIMUM, REASONABLE, SAFE, FREE, GUARANTEED PERMANENT ACCESS TO CEMETERIES LOCATED WITHIN THE 44,000 ACRE TRACT. SAFE, TIMELY, AND ADEQUATE PERMISSABLE MOTOR VEHICLE ACCESS WHERE APPROPRIATE BY THE NATIONAL PARK SERVICE. THE PARK SERVICE SHALL CONTINUE MAINTENANCE AND UPKEEP OF THE CEMETERIES WITHIN THE PARK AND CONTINUE TO EXPLORE ALL POSSIBILITIES FOR ENHANCING THE OPERATION.

3. MANAGEMENT PRACTICES OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK SHALL NOT INTERFERE WITH PRESENT AND FUTURE USE OF FONTANA LAKE.

4. PROHIBIT THE CLOSING OF THE NEWFOUND GAP ROAD, OFTEN CALLED HIGHWAY 441 FROM CHEROKEE TO GATLINBURG AND PROVIDE UNRESTRICTED PRIVATE VEHICLE USE.

5. PROHIBIT CREATION OF PROTECTIVE PERIMETERS OF BUFFER ZONES AROUND WILDERNESS AREAS OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK. ANY INTERFERENCES WITH ADJACENT PRIVATE PROPERTY IS UNACCEPTABLE.

6. SUCH OTHER RELIEF AS THE COMMITTEE DEEMS SUITABLE AND APPROPRIATE WHICH HAS REASONABLE PROSPECTS FOR RATIFICATION BY BOTH THE U.S. SENATE AND THE U.S. HOUSE OF REPRESENTATIVES.

DISTINGUISED MEMBERS OF THIS SUB-COMMITTEE, WE URGE YOUR FAVORABLE CONSIDERATION OF SENATE BILL 693 AND HR 1495. WE THANK YOU FOR YOUR TIME, ATTENTION, AND ACTION TO BRING RESOLUTION AND CLOSURE TO A CONTROVERSY THAT HAS TRAUMATIZED,IMMOBILIZED AND DIVIDED SWAIN COUNTY AND HAS CREATED AN UNFORTUNATE AND UNHEALTHY UNDERCURRENT OF ILL WILL AND MISTRUST TOWARD THE FEDERAL GOVERNMENT MANIFESTED BY A NEGATIVE ATTITUDE TOWARD THE GREAT SMOKY MOUNTAINS NATIONAL PARK WHICH OUR FOREFATHERS AND MOTHERS, CARVED OUT OF THEIR OWN HERITAGE FOR THE WHOLE COUNTRY TO ENJOY.

WE, THE PEOPLE OF SWAIN COUNTY, INVITE EACH OF YOU TO VISIT OUR "GARDEN OF EDEN" AND ENJOY ONE OF THE MOST BEAUTIFUL PLACES IN THE WORLD. THE PEOPLE OF SWAIN COUNTY WILL RECEIVE YOU HOSPITABLY. WE ASK ONLY THAT YOU OFFER A SMALL PRAYER OF GRATITUDE TO THE PEOPLE OF SWAIN COUNTY WHO RESPONDED TO THE PATRIOTIC CHALLENGE 44 YEARS AGO.

SWAIN COUNTY NOW CALLS UPON THE FEDERAL GOVERNMENT TO RECIPROCATE BY FULFILLING ITS BROKEN COMMITMENT TO THE PEOPLE OF SWAIN COUNTY IN THE SAME EXPEDITIOUS MANNER AND SPIRIT OF GOOD WILL AND COOPERATION THAT CREATED THE GREAT SMOKY MOUNTAINS NATIONAL PARK.

THANK YOU,

Mercedith Bacon

MERCEDITH BACON, SWAIN COUNTY COMMISSIONER
BRYSON CITY, NORTH CAROLINA

Senator BUMPERS. I have read your statement, incidentally, which is the most comprehensive statement I've seen on this issue so far.

Ms. BACON. Thank you.

Senator BUMPERS. Our next witness is Dr. James Causby, Superintendent of Schools in Bryson City, NC. Dr. Causby.

STATEMENT OF DR. JAMES F. CAUSBY, SUPERINTENDENT OF SCHOOLS, BRYSON CITY, NC

Dr. CAUSBY. Thank you, Chairman Bumpers.

It is with a great deal of appreciation and anticipation that I appear before you today. I deeply appreciate the opportunity you have provided me to share my personal feelings with you concerning these very important pieces of legislation before you. As a representative of the Swain County Board of Education, I appreciate the opportunity to share with you the needs of our young people in Swain County.

I appear before you with anticipation that finally, after 44 years of empty promises and lack of action by the Federal Government, a just and fair settlement of the north shore road issue may be about to occur. If any settlement is to occur, it must begin here today with the members of this subcommittee. My anticipation is that you will carefully study this issue and make wise decisions concerning a settlement. Literally, the future of Swain County and its young people is in your hands.

Forty-four years ago during the effort to win World War II, the Federal Government flooded a road that had been built by Swain County. That road now lies covered by the waters of Fontana Lake. The effort during those war years to build the necessary dams that would allow production of the electricity needed to make aluminum was noble and worthwhile. That effort, however, has resulted in a longstanding controversy that has caused our county financial burdens, has led to a deep mistrust of the Federal Government by the people of Swain County, and has even led to divisiveness among our own people.

The controversy stems from the promise made by the Federal Government to the Swain County Board of Commissioners that a new road would be built along the north shore of Lake Fontana to replace the road that had been flooded. It was to be built if and when the money is appropriated by the Congress of the United States. That money has never been appropriated and the problem has been compounded by environmental issues related to possible road construction, by the desire for needed and deserved access to cemeteries located in the area, and by misunderstandings and often intentional misrepresentations of what wilderness designation for the Great Smoky Mountains National Park actually means.

The controversy is even further complicated by the introduction of two conflicting Senate bills designed to resolve the issue. Whatever the history of this issue, one thing is clear. It is best for everyone concerned that it be settled as quickly as possible.

I am here to speak in favor of companion bills S. 693 introduced by Senators Terry Sanford and James Sasser, and H.R. 1495 introduced by James McClure Clarke. These companion bills in my opinion make provisions to settle this longstanding controversy. They are comprehensive bills that consider the needs of Swain County and the many different groups that have an interest in the north shore road issue.

They are also the bills preferred by the Swain County Board of Commissioners who are the legal, elected representatives of the people of Swain County, and who are in fact the only body with legal authority into a settlement with the U.S. Government. In my opinion these two bills are preferred by the vast majority of the citizens of Swain County.

I believe there is little doubt by anyone that a settlement of this issue is right and just. The monetary provisions of these companion bills seem to be accepted by almost everyone. Swain County spent its own money to build a road flooded by the U.S. Government. It is reasonable and fair that the county be paid $9.5 million and a debt of approximately $1.6 million be paid off. This indebtedness resulted from construction of Swain County High School, and is held by the Farmers Home Administration.

Swain County is an economically depressed area. One reason, perhaps the main reason for this, is the fact that 84 percent of all property in Swain County is nontaxable due to action of the Federal Government. This area includes the Great Smoky Mountains National Park, Cherokee Indian Reservation, Nantahala National Forest and Fontana Lake. The revenue that could be derived annually from the interest earned on $9.5 million and the $130,000 annual payment from the high school debt would allow for many needed services.

Our Board of County Commissioners realizes that the most important asset our county has is its young people. Realizing this, they have made education the top priority for the county. They have pledged that additional revenues from this settlement will be used in great part to upgrade the educational program in Swain County.

We have bright and interested students in Swain County. Our people have made many sacrifices to provide the best possible education for our children. However, the funding has never been available to offer the same educational opportunities that are enjoyed by students in many other school systems. We need to expand our course offerings in art, in music, in career awareness, in science, in mathematics, in foreign languages, and in programs for exceptional children. We need to provide the specialized counseling that is needed for our students, especially in the elementary schools. Our elementary students are housed in facilities that are outdated and no longer suitable for use. One of these buildings was built in 1922 and now has the third floor condemned. We badly need the funds that this settlement will provide. Our students deserve it. The presence of an adequate tax base and the absence of bond payments over the past 44 years would have made a dramatic difference in the ability of Swain County to adequately finance our school needs.

I see the red light is on. I would just ask that you favorably report out S. 693.

[The prepared statement of Dr. Causby follows:]

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JAMES F. CAUSBY

SUPERINTENDENT, SWAIN COUNTY SCHOOLS

TESTIMONY IN REGARD TO S-693 AND HR-1495

Ladies and Gentlemen of the Sub-Committee, it is with a great deal of appreciation and anticipation that I appear before you today.

I deeply appreciate the opportunity you have provided me to share my personal feelings with you concerning these very important piece of legislation before you. As a representative of the Swain County Board of Education I appreciate the opportunity to share with you the needs of the young people in Swain County.

I appear before you with anticipation that finally, after forty-four years of empty promises and lack of action by our Federal Government, a just and fair settlement of the North Shore Road issue may be about to occur. If any settlement is to occur, it must begin here today with the members of this sub-committee. My anticipation is that you will carefully study this issue and make wise decisions concerning a settlement. Literally, the future of Swain County and its young people is in your hands.

Forty-four years ago, during the effort to win World War

II, the federal government flooded a road that had been built by Swain County. That road now lies covered by the waters of Fontana Lake. The effort during those war years to build the necessary dams that would allow production of the electricity needed to make aluminum was noble and worthwhile. That effort, however, has resulted in a long standing controversy that has caused our county financial burdens, has led to a deep mistrust of the Federal Government by the people of Swain County, and has even led to divisiveness among our people.

The controversy stems from the promise made by the Federal Government to the Swain County Board of Commissioners that a new road would be built along the North Shore of Lake Fontana to replace the road that had been flooded. It was to be built "if and when the money is appropriated by the Congress of the United States." That money has never been appropriated and the problem has been compounded by environmental issues related to possible road construction, by the desire for needed and deserved access to cemeteries located in the area, and by misunderstandings and often intentional misrepresentations of what wilderness designation for the Great Smoky Mountains National Park actually means. The controversy is even further complicated by the introduction of two conflicting Senate bills designed to resolve the issue. Whatever the history of this issue one thing is clear, it is best for everyone concerned that it be settled as quickly as possible.

I am here to speak in favor of companion bills S-693 introduced by Senators Terry Sanford and James Sasser and HR-1495 introduced by Congressman James McClure Clarke. These companion bills, in my opinion, make provisions to settle this long-standing controversy. They are comprehensive bills that consider the needs of Swain County and the many different groups that have an interest in the North Shore Road issue. They are also the bills preferred by the Swain County Board of Commissioners who are the legal, elected representatives of the people of Swain County and who are, in fact, the only body with legal authority to enter into a settlement with the United States Government. In my opinion, these two bills are preferred by the vast majority of the citizens of Swain County.

I believe there is little doubt by anyone that a settlement of this issue is right and just. The monetary provisions of these companion bills seem to be accepted by almost everyone. Swain County spent its own money to build a road flooded by the United States Government. It is reasonable and fair that the county be paid $9.5 million and a debt of approximately $1.6 million be paid off. This indebtedness resulted from construction of Swain County High School and is held by the Farmers Home Administration.

Swain County is an economically depressed area. One reason, perhaps the main reason, for this is the fact that 84 percent of all property in Swain County is non-taxable due to action of the Federal Government. This area includes the Great Smoky Mountains National Park, Cherokee Indian Reservation, Nantahala National Forest, and Fontana Lake. The revenue that could be derived annually from the interest earned on $9.5 million and the $130,000 annual payment from the high school debt would allow for many needed services.

Our Board of County Commissioners realizes that the most important asset our county has is its young people. Realizing this they have made education the top priority for the county. They have pledged that additional revenues from this settlement will be used in great part to upgrade the educational program in Swain County.

We have bright and interested students in Swain County. Our people have made many sacrifices to provide the best possible education for our children. However, the funding has never been available to offer the same educational opportunities that are enjoyed by students in many other school systems. We need to expand our course offerings in art, in music, in career awareness, in science, in mathematics, in foreign languages, and in programs for exceptional children. We need to provide the specialized counseling that is needed for our students, especially in the elementary schools. Our elementary students are housed in facilities that are outdated and no longer suitable for use. One of these buildings was built in 1922 and now has the third floor condemned. We badly need the funds that this settlement will provide. Our students deserve it. The presence of an adequate tax base and the absence of bond payments over the past forty-four years would have made a dramatic difference in the ability of Swain County to adequately finance our school needs.

I urge this sub-committee to seriously study this matter and then to take action to settle the North Shore Road issue. I urge you to insure that the $9.5 million cash payment and the $1.6 million retirement of the high school debt be included. I ask that you consider the future of the young people of Swain County. Indeed, please consider the future of our county.

It should be evident to you by now that I consider the settlement of this issue and the cash payment to Swain County to be of utmost importance to our county. I know you have a difficult decision considering the fact that two bills, including the one offered by Senator Jesse Helms, attempt to settle this issue. I believe, however, that the companion bills sponsored by Senators Sanford and Sasser and Congressman Clarke are fair to everyone involved and satisfactorily settle this issue. I urge a favorable report from your committee on S-693 and HR-1495.

There are areas of the different bills, especially wilderness designation and the construction of a primitive road, that cause many emotional reactions and cause our citizens to be divided. I encourage this sub-committee to approach this problem with a realization that all these positions are valid and should be addressed. Surely a solution can be reached that will provide for the optimum satisfaction of all concerned.

We must not allow our differences to destroy this settlement. The overall issue is too big and too important to Swain County, and especially to our young people, to allow a settlement to be lost. I ask that this sub-committee be the voice of reason and action.

James F. [illegible]

Senator **Bumpers**. Thank you very much, Dr. Causby. I have a few questions I want to ask you in a moment.

Dr. **Causby**. Yes, sir.

Senator **Bumpers**. Our next witness is Ed Israel, North Carolina National Park, Parkway and Forests Development Council. Mr. Israel.

STATEMENT OF EDGAR P. ISRAEL, CHAIRMAN, NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL, ASHEVILLE, NC

Mr. **Israel**. Thank you, Mr. Chairman.

For 40 years, since its creation by a special act of the North Carolina General Assembly, the North Carolina Park, Parkway and Forests Development Council has worked diligently to effect a fair and equitable settlement of the 1943 agreement between Swain County and the National Park Service. The Council's efforts include vigorous action in the early 1950s to get the Park Service moving on the construction of the north shore road and support for the transmountain road from Bryson City to Townsend, TN, after the construction terminated on the north shore road following major slides and the uncovering of Anakeesta rock deposits in 1966.

The Council supported the Swain County 10 point proposal in 1975 and actively participated in the special study a appointed by Secretary of the Interior Cecil Andrus in 1979. The Council also supported legislation introduced by Congressman Lamar Gudger in 1980 to implement the recommendations of the special study committee. In 1984 the Council supported Senate bills 1947 and 2183. And now the Council again joins with the Swain County Commissioners, the Board of Aldermen of Bryson City, and the Tennessee Great Smoky Mountains Park Commission to support S. 693.

The goal of the Council in 1947 is the same goal today in 1987: to assist Swain County settle the 1943 agreement. The Council joins in supporting SB 693 because there appears little hope for the construction of any type of road on the north shore of the park. And Swain County should not have to wait another 10, 20, or 44 years for a settlement.

The cash settlement to the county is needed now, and relief from the school's Farmers Home Administration bond indebtedness is needed now. Swain County has no funds to develop the necessary infrastructure to attract industry, and unemployment exceeded 20 percent during the winter of 1986–87 when our regional average was about 6½ percent. The county has an extremely limited tax base since more than 84 percent of the county is in Federal ownership.

I believe the single largest source of income remains the payments in lieu of taxes provided by the National Forest Service.

Mr. Chairman, I admit that this bill is not perfect as no bill can be perfect, nor does this bill satisfy every citizen in Swain County. Some of our people will never agree to accept less than the north shore road that was stipulated in the 1943 agreement. Some families will never accept less than a motor access road to the cemeteries in the park. Some individuals oppose wilderness designation, and some fear they will lose access to Fontana Lake if the 44,000 acres are included. And others are concerned that traffic can be limited on Newfound Gap Road through the park.

Time does not permit me to address all of these concerns, but SB 693 in my opinion presents the best opportunity for settlement of this 44 year old agreement, and to restore the faith of the citizens of Swain County in the Federal Government and the National Park Service.

Mr. Chairman, in my opinion these items should have precedence: a cash settlement for Swain County in the amount of $9.5 million; forgiveness of the 1976 Farmers Home Administration loan for construction of Swain County High School; guarantee in perpetuity access to the cemeteries in the park, and safe and timely transportation for relatives by the National Park Service; insure unlimited access to Fontana Lake for recreational uses and guarantee free and unrestricted public use of the Newfound Gap Road through the national park.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Israel follows:]

TO: SUBCOMMITTEE ON PUBLIC LANDS, PARKS, AND NATIONAL FORESTS OF THE UNITED STATES SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

June 25, 1987

STATEMENT OF: EDGAR P. ISRAEL, Chairman, North Carolina National Park, Parkway and Forests Development Council

Mr. Chairman:

For 40 years, since its creation by a special act of the North Carolina General Assembly, the North Carolina Parks, Parkway and Forests Development Council has worked diligently to effect a fair and equitable settlement of the 1943 Agreement between Swain county and the National Park Service. The Council's efforts include vigorous action in the early 50's tc get the park service moving on the construction of the North Shore Road and support for the Trans - mountain road from Bryson City to Townsend, Tennessee, after construction terminated on the North Shore Road following major slides and the uncovering of ANAKEESTA rock deposits in 1966. The Council supported the Swain county 10 - point proposal in 1975 and actively participated in the special study committee appointed by Secretary of the Interior Cecil Andrus in 1979.

STATEMENT OF EDGAR P. ISRAEL

The Council also supported legislation introduced by Congressman Lamar Gudger in 1980 to implement the recommendations of the special study committee. In 1984 the Council supported Senate Bills 1947 and 2183 and now the Council again joins with Swain County Commissioners, the Board of Aldermen of Bryson City and the Tennessee Great Smoky Mountain Park Commission to support SB 693. The goal of the Council in 1947 is the same goal today in 1987, to assist Swain county settle the 1943 agreement. The Council joins in supporting SB 693 because there appears little hope for the construction of any type of road on the North Shore of the Park and Swain county should not have to wait another 10, 20 or 44 years for settlement. The cash settlement to the county is needed now, and relief from the school's Farmers Home Administration bond indebtedness is needed now. Swain county has no funds to develop the necessary infrastructure to attract industry, and unemployment exceeded 20% during the winter of 86-87 when our regional average was about 6.5%. The county has an extremely limited tax base since more than 84% of the county is in federal ownership. I believe the single largest source of income remains the payments in lieu of taxes provided by the U.S. Forest Service.

Mr. Chairman, I admit that this bill is not perfect, as no bill can be perfect, nor does this bill satisfy every citizen in Swain county. Some of our people will never agree to accept less than the North Shore road that was stipulated in the 1943 agreement. Some families will never accept less than a motor access road to the cemeteries in the Park. Some individuals oppose Wilderness designation, some fear they will lose access to Fontana Lake if the 44,000 acres are included and others are concerned that traffic can be limited on Newfound Gap Road through the Park.

Time does not permit me to address all of these concerns but SB 693, in my opinion, presents the best opportunity for settlement of this 44-year- old agreement and to restore the faith of the citizens of Swain county in the federal government and the National Park Service. In conclusion, Mr. Chairman, these items should have precedence:

STATEMENT OF EDGAR P. ISRAEL

1. A cash settlement for Swain county in the amount of $9.5 million.

2. Forgiveness of the 1976 Farmers Home Administration loan for construction of Swain County High School.

3. Guarantee in perpetuity access to the cemeteries in the Park and safe and timely transportation for relatives by the National Park Service.

4. Insure unlimited access to Fontana Lake for recreational uses and guarantee free and unrestricted public use of Newfound Gap Road through the National Park.

Thank you.

Senator BUMPERS. Thank you, Mr. Israel.

Ms. Rodriguez.

STATEMENT OF KAREN RODRIGUEZ, NANTAHALA OUTDOOR CENTER, BRYSON CITY, NC

Ms. RODRIGUEZ. Good morning.

My name is Karen Rodriguez, and I come before this committee as an advocate of the Great Smoky Mountains Wilderness Act, representing the Nantahala Outdoor Center.

My support of the bill revolves primarily around three issues: the preservation of our natural heritage, the development of economic benefits in North Carolina, and the resolution of the longstanding controversy between Swain County and the Federal Government.

In an effort to keep this short, I will not address specifically the preservation of our natural heritage as there are any number of others who will come before this committee to do that most eloquently, and would like to move on to the issue of the development of the economic benefits for western North Carolina.

I think that wilderness designation for the park will assure that it continues to contribute to the diversity of the recreational experience available in our part of the state. I feel that the park acts as a partner with the Nantahala Outdoor Center in providing tourist industry in that area. NOC is a private outfitter that provides services, including backpacking and bicycling, canoeing and white water rafting for more than 80,000 people annually. As we continue to develop our private lands in a responsible manner, the undeveloped wilderness will act to balance that development that the private industry just can't offer. We cannot assure that the private sector will develop responsibly, and we really need that wilderness as a balance.

Our contribution to the partnership is several million dollars in revenue and approximately 300 jobs. And these have corresponding increases in the sales and property taxes that are derived in Swain and Madison counties.

Also, I feel that now is the time to finally honor the longstanding obligation that is due to the people of Swain County by appropriating the funding that is detailed in the Wilderness Act, the Senate bill 693. A fair appropriation will strengthen the foundation of public education and community service that I feel is needed in my area.

I would ask the committee to please expedite the passage of Senate bill 693. Thank you.

[The prepared statement of Ms. Rodriguez follows:]

Nantahala Outdoor Center
U.S. 19W Box 41 Bryson City, North Carolina 28713 (704) 488-2175

TESTIMONY OF KAREN RODRIGUEZ
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE-
PUBLIC LANDS SUBCOMMITTEE ON JUNE 23, 1987

I come before this Committee as an advocate of the Great Smoky Mountains Wilderness Act, representing the Nantahala Outdoor Center. My support of the bill revolves primarily around three issues: the preservation of our natural heritage, the development of economic benefits in Western North Carolina and the resolution of the long-standing controversy between Swain County and the Federal Government.

The Great Smoky Mountains National Park is a Regional Bio-sphere of tremendous natural beauty. Its lands are home to a great diversity of plant and animal life. To maintain this diversity, we must protect the area from development. The value of this great national treasure increases as our lifestyles change. More than 80% of our population lives in urban or suburban settings. Wilderness designation will assure preservation of this portion of our natural heritage for future generations.

Leaders in Outdoor Adventures for Over a Decade

Wilderness designation will also assure that the Park continues to contribute diversity to the recreational experience available in Western North Carolina. I feel the Park acts as a partner with the Nantahala Outdoor Center(NOC) in the tourist industry. NOC is a private outfitter providing services including backpacking, bicycling, canoeing and whitewater rafting for more than 80,000 people annually. As we continue to responsibly develop the private lands, the undeveloped wilderness must be preserved to provide balance. NOC's contribution to the partnership is several million dollars in revenue and approximately 300 jobs, with the corresponding increases in sales and property taxes in Swain and Madison Counties.

Also, I feel that now is the time to finally honor the long-standing obligation due to the people of Swain County by appropriating the funding detailed in the Wilderness Act. A fair appropriation will strengthen the foundation of public education and community service critically needed in our area.

Please expedite the passage of Senate Bill 693. Thank you.

Senator BUMPERS. Thank you very much, Karen.

Is it Mr. Smythe?

Dr. SMYTHE. Yes, Mr. Chairman.

STATEMENT OF DR. ROBERT B. SMYTHE, CONSERVATION DIRECTOR, NORTH CAROLINA CHAPTER OF THE SIERRA CLUB; AND MEMBER, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Dr. SMYTHE. Mr. Chairman, I'm Robert Smythe from Chapel Hill, NC. You have my full statement for the record. I will summarize it.

I welcome the opportunity to speak to this subcommittee in strong support of the S. 693, the Sasser-Sanford-Gore bill, to establish the Great Smoky Mountains National Park Wilderness. I speak today for more than 7,000 members of the Sierra Club in the State of North Carolina, and on this issue I also represent the position of the national Sierra Club with more than 400,000 members across the United States. I'm also a member of the National Parks and Conservation Association, and I'm here representing today it's 55,000 members.

Mr. Chairman, your committee's action is needed to protect this great national park and to resolve a controversy of more than four decades. Let me emphasize that S. 693 would not change the current management of this park, rather it would guarantee, as only the Congress can, that the park will continue to be managed for future generations, as it is now, with most of the park maintained as wilderness, while also assuring by law that the current access will be maintained to certain cemeteries for those whose ancestors are buried there.

Formal wilderness status for the Smokies has been a long-sought goal of the Sierra club, of the NPCA, and of other national and state environmental organizations in order to achieve what we feel is the essential permanent protection for the parks magnificent scenic and natural resources. Since 1943, as you have heard, there has been ongoing controversy over construction of a road along the north shore of Fontana Lake. Mr. Chairman, the primary purpose originally of that road was to allow development of the land above Fontana Lake. That purpose was made moot by the transfer of that land into the national park.

Furthermore, in subsequent years it became clear that such a road was also inappropriate because its construction would both cost the taxpayers many millions of dollars and also bring about considerable environmental damage. After considerable additional research, we now know that construction of any road in this area would disturb the subsurface Anakeesta rock formations, causing acid leaching that would result in extensive damage to streams, loss of fisheries and possibly major water quality problems for areas outside the park itself. In short, the construction of any new road in this part of the park would be an environmental disaster.

Now, I caution you to note that in the bill prepared by Senator Helms there is language that would mandate the construction of a road "notwithstanding any other provision of law" thus effectively waiving relevant Federal and state health, safety and environmental laws.

In addition, I point out that Senator Helms' bill would hold in abeyance the designation of wilderness until such a road was completed. Yet, it authorizes only $950,000 to build that road. I submit that the road would never be completed under these circumstances and, therefore, wilderness would never be designated for the Smokies Park under that bill.

Now, we are very much aware that filling of Fontana Lake has restricted access of some local residents to the grave sites of their ancestors in a number of small cemeteries within the park. The National Park Service has provided controlled access for these persons by boat and off-road vehicles, but this service is not guaranteed by any current Federal law. We are also aware that Swain County residents have never received adequate financial compensation for the lack of the road that they were once promised. But as we face growing demands for limited Federal funds, the absence of a Federal law that mandates an equitable solution to these problems means that these parties may lose the access and the opportunity to settle claims that have been outstanding for over 40 years.

The Sierra Club and the National Parks and Conservation Association support an equitable solution of these issues and settlement by the Congress. We believe that S. 693 provides that settlement. We do not believe that construction of any new road would be either fiscally or environmentally sound, and we will oppose, as we have, any legislation that contains such a provision. S. 693 would formally designate as wilderness 467,000 acres, or about 90 percent of the park, allowing continued use of all existing roads, trails, campgrounds and visitor facilities. We strongly support the passage of this bill, as well as the inclusion of the specified funds for Swain County in a separate Interior Department Appropriations bill. We do not support the separation of any part of the 467,000 acres as "potential wilderness" or other separate category. That would depart from the careful compromise represented by this bill.

Mr. Chairman, last year the beauty and natural values of the Great Smoky Mountains Park were enjoyed by nearly 10 million, two and one-half times as many people as the next most popular park, that which is Acadia in Maine; more than three times as many as visited Yosemite in California. Several hundred thousand of these visitors left their cars behind to hike the trails, camp and further enjoy the diverse natural communities, wildlife and scenic vistas that are now protected only by administrative policies. This park contains a priceless natural heritage. There should be no doubt in your mind that the citizens of this Nation enjoy this park for the wilderness that it is and want to see it protected for future generations. I urge you to provide us finally with that protection by voting for S. 693.

Thank you, sir.

[The prepared statement of Dr. Smythe follows:]

STATEMENT OF ROBERT B. SMYTHE, Ph.D.
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS
23 June 1987

Mr. Chairman and members of the Subcommittee: I welcome the opportunity to speak to you today in strong support of S. 693, the Sasser-Sanford bill to establish the Great Smoky Mountains National Park Wilderness. I speak for more than seven thousand members of the Sierra Club in the State of North Carolina, and on this issue I also represent the position of the national Sierra Club, with more than 400,000 members across the United States.

Your action is needed to protect this great National Park, and to resolve a controversy of more than four decades. Let me emphasize that this legislation would not change the current management of this Park; rather, it would guarantee, as only the Congress can, that the Park would continue to be managed for future generations as it is now, with most of the Park maintained as wilderness, while assuring that access will be maintained to certain cemeteries for those whose ancestors are buried there.

Formal wilderness status for the Smokies has been a long-sought goal of the Sierra Club and other national and state environmental organizations, in order to achieve permanent protection for the Park's magnificent scenic and natural resources, and to end the threat of road construction and other incompatible development within the Park boundaries. Since 1943 there has been ongoing controversy over construction of a road along the north shore of Fontana Lake, which the Department of the Interior was to construct in place of one that was flooded when the lake was filled by the Tennessee Valley Authority.

As you are aware, most of this proposed road was never built; its primary purpose, to allow development of the land above Fontana Lake, was made moot by the transfer of that land into the National Park. Furthermore, it became clear that such a road was also inappropriate because its construction would both cost the taxpayers many millions of dollars and also bring about considerable environmental damage. We now know that construction of any road in this area would disturb the subsurface Anakeesta rock formations, causing acid leaching that would result in extensive damage to streams, loss of fisheries, and possibly major water quality problems for areas outside the Park itself.

We are very much aware that the filling of Fontana Lake has restricted access of some local residents to the gravesites of their ancestors in small cemeteries within the Park; the National Park Service has provided controlled access for these persons by boat and off-road vehicles, but this service is not guaranteed by any current federal law. We are are also aware that Swain County residents have never received financial compensation for the lack of the road that they were once promised by the U. S. Government.

As we face growing demands for limited federal funds, the absence of a federal law that mandates equitable solutions to these problems means that these parties may lose the access and the opportunity to settle claims that have been outstanding for over 40 years. The Sierra Club supports an equitable settlement of these issues by the Congress; we believe that S. 693 provides that settlement. We do not believe that construction of any new road would be either fiscally or environmentally sound, and we will oppose any legislation that contains such a provision.

S. 693 would enact a compromise that has been carefully negotiated with the Commissioners of Swain County to provide a cash settlement of $9.5 million in lieu of the road; it also waives a debt of the county to the Farmers Home Administration for the construction of the Swain County High School in the late 1970s. The county's loan payments to FmHA, which are $130,500 annually, would otherwise continue until 2008. The bill also guarantees that the Park Service will continue to provide special access in the future to cemeteries located in the Park, as is now specified in the Park's 1982 General Management Plan.

S. 693 would formally designate as Wilderness 467,000 acres, or about 90 percent, of the Park, allowing the continued use of all existing roads, trails, campgrounds and visitor facilities. Our membership strongly supports the passage of this bill, as well as the inclusion of the specified funds for Swain County in a separate Interior Department appropriations bill.

Last year, the beauty and natural values of The Great Smoky Mountains National Park were enjoyed by nearly **ten million** park visitors -- two and one-half times as many people as the next most popular national park, which is Acadia, in Maine, and more than three times as many as visited Yosemite in California. Several hundred thousand of these visitors left their cars behind to hike the trails, camp, and further enjoy the diverse natural communities, wildlife, and scenic vistas that are now protected only by administrative policies in the current Park management plan. This plan is, of course, subject to revision in response to future budget, policy, and management decisions.

The Great Smoky Mountains National Park contains a priceless natural heritage. It has been called the recreational rooftop of eastern North America; its forests and wildlife have been studied for generations, and featured in both scientific and popular publications around the world. There should be no doubt in your minds that the citizens of this nation enjoy this great park for the wilderness that it is, and want to see it protected as such for future generations. I urge you to provide us, finally, with that protection, by voting for S. 693. Thank you very much for the opportunity to represent the many others who were ready and willing to testify in favor of this historic legislation.

Senator **Bumpers**. Thank you, Mr. Smythe.

Commissioner Bacon, what is the population of Swain County?

Ms. **Bacon**. Approximately 10,000.

Senator **Bumpers**. How big is Bryson City?

Ms. **Bacon**. About 1,000.

Senator **Bumpers**. About 1,000? Is that the county seat?

Ms. **Bacon**. Yes.

Senator **Bumpers**. It sounds like where I grew up.

And what is the county budget right now?

Ms. **Bacon**. We have a county budget of $2.4 million.

Senator **Bumpers**. That's $2.4 million?

Ms. **Bacon**. Yes, $2.4 million of which $630,000 comes from ad valorem taxes.

Senator **Bumpers**. What are your payments in lieu of taxes each year?

Ms. **Bacon**. We get a total of about $400,000 payment in lieu.

Senator **Bumpers**. How does that compare with—well, it has been so long it's hard to tell, isn't it?

Ms. **Bacon**. Surrounding counties?

Senator **Bumpers**. Well, I was just thinking about how that compared with what kind of taxes you would be collecting in that area if it weren't for the park. But that would just be a wild guess at best.

Ms. **Bacon**. Right.

Senator **Bumpers**. How do you propose to use this $9½ million? That's a lot of money for Swain County, isn't it?

Ms. **Bacon**. Well, now the $9½ million will be properly invested according to North Carolina laws. We can only use the interest from the 9½ million.

Senator **Bumpers**. Is it a county board of commissioners? Is that the governing body of Swain County?

Ms. **Bacon**. Yes, sir. We have three commissioners.

Senator **Bumpers**. Are you chairman of the commission?

Ms. **Bacon**. I'm not chairman. Mr. James Coggins is chairman. I'm one of the three commissioners.

Senator **Bumpers**. But you are the county executive officer, are you not?

Ms. **Bacon**. Yes, I am.

Senator **Bumpers**. And how many members on your board?

Ms. **Bacon**. Three.

Senator **Bumpers**. Is that similar to what we call our quorum court, our justices of the peace in Arkansas? It's the governing board of that county.

Ms. **Bacon**. It is the governing board of Swain County.

Senator **Bumpers**. And they have endorsed S. 693?

Ms. **Bacon**. Yes, sir, 100 percent.

Senator **Bumpers**. I think basically all of you have testified that while you might personally have different feelings about the road, as do other people in Swain County, you don't want that to be an obstacle to keep this bill from being passed.

Ms. **Bacon**. That is correct. We——

Senator **Bumpers**. And I think that's good thinking on your part because frankly I don't think the road is ever going to be built.

And all we do is continue to prolong this thing and keep you from getting your $9½ million.

Dr. Causby, what is the rationale now—let's get back to the high school that you built in 1976. What is the rationale for the Government giving you a million and some dollars for that high school?

Dr. **Causby**. I think the rationale of that came through the original negotiation process on this bill I think in 1979. There was an original study commission, some representatives from the Interior Department, some locally, some appointed by the State of North Carolina, who came together to look at what might be a just and fair settlement of this issue. They started out with a list of maybe 18 to 20 different items that should be incorporated, and it narrowed down finally to the two: to the $9½ million payment, the $1.6 million payment of the high school bond.

Senator **Bumpers**. But I still don't understand how the high school got mixed up in all this.

Dr. **Causby**. See, the county pays the bond indebtedness on the high school. In North Carolina the counties are responsible for school facilities. The rationale was that if the existing situation with the park—if the county had not been having to pay on bonds on the road that was laying under the water, then they would have had the money to have built the high school originally without having to borrow the money. So, this was part of the rationale.

Senator **Bumpers**. But aren't you double dipping there? If we pay you back for the $9½ million, doesn't that assuage all the pain you have gone through?

Dr. **Causby**. Well, we feel like by the time you take into consideration the $1.3 million compounded since 1943 at 5 percent interest, it comes out to more than $9½ million, if you figure it out.

The $9½ million cannot be touched by the commissioners. It has to be deposited. The only way they could ever touch it is if two-thirds of the registered voters in the county vote to do that. And all the registered voters have to vote to do it. They all have to vote. So, it almost never could be touched. So, there is no way that they can take any of that $9½ million and go ahead and pay off the bond. This was to be a separate appropriation that would pay off the high school bond.

Senator **Bumpers**. Don't you have some young, dynamic representative or senator in the North Carolina Legislature to get a little old amendment passed to allow you to use part of the $9½ million to pay off the school?

Dr. **Causby**. Well, that is built into this bill that the principal cannot be used. And we feel like that's fair. We think the people of Swain County want that assurance that it will not be——

Senator **Bumpers**. Well, what would change this bill to provide—I mean, we could override North Carolina law here.

Dr. **Causby**. Well, it's not North Carolina's.

Senator **Bumpers**. Why couldn't we just cut the $9½ million to $8 million and then another million and a half to pay off the school?

Dr. **Causby**. Well, it is not North Carolina law. It's actual language in this bill that requires that because that's what our people wanted.

Senator BUMPERS. I'm very sympathetic, incidentally. Fort Chafee was built in 1940 near my hometown. They took about 150,000 of the best acres of land, and farmers and everything else in our little community. And my father was a small town merchant, and it just devastated his business initially. All those people were moved out. I am very sympathetic to these things. But I'm not so sure about the high school.

Dr. CAUSBY. When the negotiation of the bill was originally done, when it came down to what our county commissioners would agree to, those two items had to be in the bill for them to agree to it. And I think if that is not in there—and I don't know. Of course, I can't vote for them. Ms. Bacon can speak to that, but I have series doubts that they would approve the agreement if that's not in there.

Senator BUMPERS. I was surprised by Dr. Causby's testimony. Bryson City is in the proximity of Fontana Lake, is it not?

Dr. CAUSBY. Yes, it is.

Senator BUMPERS. I'm amazed that you have a 20 percent unemployment rate. I would think that the tourism business there, in the summertime especially, would——

Dr. CAUSBY. Well, the unemployment drops during the summer and the fall. It gets down somewhere——

Senator BUMPERS. The 20-percent figure you gave me was——

Dr. CAUSBY. It drops to maybe 10, 11, or 12 during the summer if we're lucky. But it goes up as high—it has been as high as 35 percent in the winter. We just have very little industrial base. There is little——

Senator BUMPERS. Are you essentially a tourist community now?

Dr. CAUSBY. Yes, essentially a tourist community.

Senator BUMPERS. Well, it sounds like a quaint area and a beautiful area, and certainly well-represented by all of you.

Dr. CAUSBY. It is but we have severe needs.

Senator BUMPERS. Well, I thank all of you very much for being here this morning. Incidentally, I have some figures here which show how many people have visited approximately 20 cemeteries since 1978. And I will insert those in the record. And the figure—strangely enough, it swings rather wildly. I mean, you have quite a few people going to these cemeteries one year and not so many the next year. I don't know why that is. I know that people who have loved ones buried in those cemeteries feel very strongly about it. Sometimes——

Dr. CAUSBY. They should.

Senator BUMPERS [continuing]. Those of us in Washington—you know, a cemetery is a cemetery. But if you had a son or a daughter buried there, it becomes a very important issue to you. And I'm cognizant of that.

But I'm also realistic about these bills and the possibility of building the road. And quite frankly, I would rather pay the $9½ million than to build a road which is probably going to cost $2 million to $5 million, and then terrible upkeep on it for a long time. So, we have budget constraints on the road too no matter how strongly I might feel about it and how much I might want to accommodate the building of a road so those people could get there.

Ms. **Bacon**. The building of the road—so far 6 miles was built—cost the Government $4 million.

Senator **Bumpers**. $4 million for 6 miles?

Ms. **Bacon**. Yes.

Senator **Bumpers**. This is unbelievably precipitous terrain there, isn't it?

Ms. **Bacon**. Yes.

Senator **Bumpers**. I wish I had time to visit all the places I hold hearings on, and I wish I could come to Bryson City and visit with you sometime.

Thank you all very much for being with us this morning.

Ms. **Bacon**. Thank you.

Mr. **Smythe**. Thank you, Mr. Chairman.

Senator **Bumpers**. Incidentally, the Bumpers come from Person County, NC. Do you know where that is? Roxoboro?

Ms. **Bacon**. Yes.

Senator **Bumpers**. Well, that's where we sprang.

Our second panel consists of Neil Murphy, Chairman of the Great Smoky Mountain Park Commission; Ray Payne, Smoky Mountains Hiking Club; Theodore Snyder, Jr., Great Smokies Wilderness Advocates; and Ron Tipton, Southeast Regional Director of the Wilderness Society. Gentlemen, if you will all take a seat here.

Gentlemen, if you can summarize your testimony and certainly summarize within 5 minutes, we would be most grateful. You have heard the witnesses who have testified before you which will give you some idea of whether you are being repetitive or not—repetitious. But in any event, we do not want to cut anybody off. We want you to relieve yourself of your feelings on this.

Our first witness is Neil Murphy, Chairman of the Great Smoky Mountain National Park Commission. Which one is Mr. Murphy?

Mr. **Murphy**. Right here, Senator.

Senator **Bumpers**. Please proceed.

STATEMENT OF NEIL F. MURPHY, CHAIRMAN, GREAT SMOKY MOUNTAIN PARK COMMISSION

Mr. **Murphy**. Senator, thank you very much for an opportunity to present this testimony. I have formal testimony written, which can be included, and recognizing everyone's ability to read it, I'll simply comment and expand upon it.

I have been asked by Governor McWherter to indicate that I do represent his viewpoints in support of S. 693. I want to strongly encourage passage.

This is good legislation. A friend of mine from your home area, the Ozarks, would define it as right fair legislation. I said, well, I think it's darn good legislation. He said, I'm from the Ozarks, and in the Ozarks right fair is about as far as you go.

Specifically I think it protects the land as we know that is unmatched anywhere in the world that has been recognized by the United Nations, as well as by the United States, as being a world heritage site. It provides for just and appropriate indemnification of Swain County for promises made by the government and provides much needed educational opportunities for their youth.

Senate 693 does guarantee access to the grave sites.

The Honorable Lamar Alexander, former Governor of Tennessee, as well as myself, have hiked that area north of Fontana Lake several times, and he told me that a road just can't be built there. I would agree with him. Senator, there are places over there where that so-called trail is vertical on one side. You are cliff-climbing on one side. You take a step on the other side, and you're swimming in the lake. It's tough country. I understand why the road costs so much to build—the small part of it that was built.

The pockets of Anakeesta rock are very important. I want to point out that if water leaches through this rock, it will create an acid runoff problem which will have a disastrous effect upon these wonderful, famous trout streams that feed the tourist industry. It will have a very negative effect upon Fontana Lake besides being an environmental disaster which I'm totally concerned about. This could be an economic disaster to the tourist industry to build this road. If we could just knock Fontana Lake and Bryson City—make it very inhospitable. There is an awful lot of good fishing down there. The development—the designation of wilderness, on the other hand, then will protect the economic base and the tourist base there because of the danger of uncovering that rock.

One of our former presidents made a comment that I would like to share with the committee. He said in commenting on a certain piece of legislation, there are those who are so afraid of rocking the boat that they won't row. He said you can't make any progress that way. I would like to ask this committee and the Senate to row.

Thank you, sir.

[The prepared statement of Mr. Murphy follows:]

STATE OF TENNESSEE
GREAT SMOKY MOUNTAIN PARK COMMISSION
73 TULIP GROVE CIRCLE, #9
BRISTOL, TN. 37620

REMARKS TO BE PRESENTED IN CONGRESSIONAL TESTIMONY ON BEHALF OF THE GREAT SMOKY MOUNTAIN NATIONAL PARK WILDERNESS BILL

By: Neil F. Murphy, Chairman
Great Smoky Mountain National Park Commission

Mr. Chairman, Senators, ladies and gentlemen, I am Neil Murphy, Chairman of the Tennessee Great Smoky Mountain Park Commission. I appear before you on behalf of the Commission, and Governor McWherter who have unanimously endorsed the Great Smoky Mountain Park Wilderness Bill, S.693, to strongly encourage final passage of this legislation.

There are overwhelming reasons why this is good legislation. It is interesting to me that, as our past expands and age comes upon us, we seem to look more toward the future with increasing concern. I speculate that this is because we are becoming more concerned that we provide something for future generations.

This legislation will provide for a great wilderness sanctuary containing lands unmatched anywhere in the world. This has been documented by 3 important steps. The first was the creation of the National Park itself by men and women of vision over 50 years ago. The second was designation of a World Heritage Site and thirdly by designation as an International Biosphere Reserve by the United Nations. It will protect this sanctuary from being lost to our progeny. It provides for an untouched wilderness area available for generations not only unborn but as yet unimagined.

It further provides for just and appropriate indemnification of Swain County, North Carolina for promises made by the government in 1943. This indemnification will enable Swain County to improve its resources, particularly its human resources, in the form of much needed educational opportunities for its youth.

S.693 guarantees access to ancestral homelands and grave sites by citizens whose loved one's remains are interred on the north shore of Fontana Lake. The Honorable Lamar Alexander, immediate past Governor of the volunteer state of Tennessee and a wilderness enthusiast well respected in conservation circles shared with me that his opinion, after hiking the north shore of Fontana Lake was that "a road just can't be built here." While the Governor is not a civil engineer, he does know wilderness and he does know rugged terrain and he has had the personal commitment to examine the site first hand. I respect that. In addition to steep terrain that is faulted and unstable, there are pockets of Anakeesta rock which, when exposed, will produce acids that will be carried into streams and kill all aquatic life.

It provides for protection of precious wilderness lands from future development. This is consistant with the ideas of the park's founders to preserve a large natural area in the southern appalachians with minimal development inside park boundries. The pristene natural resources of the Smokies have stimulated development of tourist facilities in the surrounding communities. With wilderness protection the future of tourism is even brighter.

The bill contains sufficient latitude to adapt to additional tourist visitation to this, our most visited of all national parks.

In summary S.693 is appropriate and in full keeping with the mandates of the National Park Service under the Department of Interior, it responds to human needs of those living in areas surrounding the Park, and it protects a unique environment for America's future generations.

These reasons are compelling and stimulated the Tennessee Great Smoky Mountain Park Commission to the strongest possible endorsement of this legislation. It calls for commitment to the future.

One of our former Presidents, in commenting on legislation said "There are those who are so afraid of rocking the boat that they won't row. You can't make any progress that way." The time has come to row.

It is appropriate and I appreciate being able to come before you whom we have elected, whom we have employed, to represent us. We call upon you in this great representative democracy to do just that. Time is upon us to act. To protect this wilderness with appropriate legislation. To settle the just claims initiated by the 1943 agreement with Swain County, North Carolina. We trust you will do so and we encourage you to do so by enacting S.693. Thank you.

State of Tennessee

Neil Francis Murphy
Commissioner
Great Smoky Mountains National Park

73 Tulip Grove Circle #9
Bristol, TN 37620

Phone 615-878-3444

STATE OF TENNESSEE
GREAT SMOKY MOUNTAIN PARK COMMISSION
73 TULIP GROVE CIRCLE, #9
BRISTOL, TN. 37620

RESOLUTION

WHEREAS the Great Smoky Mountains National Park has come to be recognized internationally as an irreplaceable natural preserve because of the tremendous variety of flora and fauna protected within its boundary, and

WHEREAS the Park is not only a place of natural beauty, it is also a major factor in the economy of Tennessee and North Carolina, and

WHEREAS Congressman Clarke of North Carolina, along with five Congressmen and Congresswomen from Tennessee, have introduced H.R. 1495 which designates 467,000 acres of Park lands as Wilderness, and

WHEREAS Senators Sasser and Gore of Tennessee and Sanford of North Carolina have introduced similar legislation in the Senate in S. 693, and

WHEREAS this legislation guarantees that current Park management practices will remain in effect by putting them into law, insuring that the priceless natural heritage of this area will be preserved forever and that the people of Tennessee and North Carolina will continue to enjoy the economic benefit of the Park, and

WHEREAS the bills also provide for a fair and equitable settlement of a long-standing dispute between Swain County, North Carolina and the Department of the Interior concerning Park road construction, and

WHEREAS the bills stipulate that the Park will continue to provide special access to the north shore cemeteries, and

WHEREAS the passage of these bills will insure that the Great Smoky Mountains National Park will continue to be one of the gems in our National Park System in addition to providing a settlement of the road issue in Swain County

NOW, THEREFORE, BE IT RESOLVED that the Commission endorses the two bills referenced above which seek to preserve as Wilderness some 467,000 acres of superlative wildlands spanning two states within Great Smoky Mountains National Park, and

BE IT FURTHER RESOLVED that the Commission also recognizes the moral obligation for the fair settlement of Swain County's claims arising from the 1943 Agreement.

By: Neil F. Murphy
Neil F. Murphy
Chairman

Dated: May 1, 1987

Members of the Commission: Mr. Lindsay Young, Knoxville; Mr. Dean Stone, Maryville; Mr. John Murphy, Maryville; Mr. Al Schmutzer, Sevierville

Senator BUMPERS. Thank you very much.
Mr. Payne.

STATEMENT OF RAY PAYNE, SMOKY MOUNTAINS HIKING CLUB, KNOXVILLE, TN

Mr. PAYNE. I am Ray Payne of Knoxville, TN, and here to represent the Smoky Mountains Hiking Club. This organization was organized in 1924, 10 years prior to the official birthday of the Smoky Mountains Park.

Senator BUMPERS. Mr. Payne, would you pull the microphone a little closer please, sir?

Mr. PAYNE. This group has always participated in opportunities to provide protection to the natural values of this park and certainly supports S. 693 as the best means to provide the protection that this park needs.

The hiking club has always taken the position to oppose activities that it considered detrimental to the park. And of course, road construction heads the list of these activities. The park at this time has a very good road system. And although the need for legislative protection was recognized before there was a wilderness act, we had to wait until the wilderness act was passed in order to go for a bill that would provide the kind of protection we need.

The detrimental effects of highway construction are well-documented. We all depend on highways, and up to a point we have to accept them. But where the roads are not needed, we should not subject ourselves to the expense and the environmental damage that is associated with our construction. A letter from the Smoky superintendent, Randall Pope, to Senator Terry Sanford, which is dated April 27, 1987, highlights our concerns for the detrimental effects of the road construction. And a copy of that letter is attached to this statement which I have provided for the committee. This group has worked since the mid-1960s to come up with a compromise solution which would resolve the problem associated with road construction and the area around Fontana and which also would give protection to the area that deserves protection.

Senator Sasser introduced our bill back in 1977, which called for the protection of 475,000 acres.

The same bill was introduced in 1981, but with the issuance of the General Management Plan, which identified the 467,000 acres which the Park Service agrees meets its criteria for wilderness inclusion, we have supported these bills for the 467,000 acres. And we continue to support it. We have participated in numerous meetings to work out a compromise, and we have agreed with and fully support the resolution of that 1943 agreement by the payment of the $9½ million to Swain County and the relieving of that school bond debt as a part of the bill.

We recognize the need for access to the cemeteries and the current means of access whereby the Park Service provides transportation across the lake, and where it's required, provides transportation north of the lake. Of course, most the cemeteries in the park are not restricted by Fontana Lake. I might point that out. And the Park Service has long ago recognized that the horse-drawn vehicles are not an acceptable means of providing access to those cemeteries, and they do not use those at this time.

I have personally visited many of these cemeteries in that area north of the lake. All of my deceased relatives are buried in similar mountain plots in the hills of West Virginia and Virginia. So, it's a familiar scene, but it is not one for which I would sacrifice a wilderness area.

I might point out that the first wilderness proposal prepared by the National Park Service after the passage of the 1964 Wilderness Act was one for a proposal for a Smokies wilderness. Now, that particular proposal left a lot to be desired, but it does highlight the longstanding interest in providing protection for the wilderness area, the qualifying wilderness area, which has now been identified as 467,000 acres.

And so, we do not accept the deletions of 67,000 acres from that area, and we do not accept—will not accept—road construction. We will work as we always have to oppose this road construction. But we do agree with this commitment to Swain County, which they have agreed that a payment in lieu of road construction is acceptable, and we support it.

Thank you.

[The prepared statement of Mr. Payne follows:]

SMOKY MOUNTAINS HIKING CLUB
BOX 1454 KNOXVILLE, TENNESSEE 37901

Statement by Ray Payne for the Smoky Mountains Hiking Club for the record of the hearing on S.693 in the United States Senate, Committee on Energy and Natural Resources, on June 23, 1987.

I am Ray Payne of Knoxville, Tennessee, and I am here to speak for the Smoky Mountains Hiking Club. The Smoky Mountains Hiking Club (SMHC) was organized in 1924, before there was a Great Smoky Mountains National Park. This club recognized the outstanding natural values of this area then as it does now, and it recognized its immense value to the nation as a place where the beauty and the ways of nature at work were unmatched anywhere in the eastern United States. The need for legislative protection for the de facto wilderness area of this park was obvious before the passage of the 1964 Wilderness Act but without the Wilderness Act there was no means to accomplish this. Now, there is a means and we fully support the passage of S.693 and H.R.1495 for this purpose. We are unalterably opposed to S.695.

In 1924, when the SMHC was organized, there was still some timbering activity in some of the area that later became part of the park, and there were quite a few mountain homesites, particularly at low elevations. But even then, the bulk of the land that later became part of the park was uninhabited. With the establishment of the park in the 30s, an effort in which the SMHC was very active, those areas which had been used for timber and homesites made an excellent recovery. The temperate climate and the relatively abundant rainfall in this area made this possible. This area, combined with that in which mankind was never more than a visitor, has made this park the finest area in the Appalachian Mountains. It is also the nation's most popular national park.

The SMHC not only worked long and hard for the establishment of the park but has a long history of involving itself in issues such as proposed developments and other issues that affect the quality of the Smokies as a natural area. The club has never hesitated to oppose activities that were considered detrimental to the natural values of this park. Unnecessary road building heads the list of those activities. We consider unnecessary roads, even primitive ones, to be the nemesis of this and other natural areas.

This park has a very good road system that provides excellent access and opportunity to observe its natural beauty. Unfortunately, there are many who constantly advocate more road construction in our national parks. Because of this pressure on the National Park Service and because the NPS is a political administrative agency, from time to time it yields to this pressure. The legislative protection that would be provided by wilderness designation for the 467,000 acres by S.693 is essential for the long-term integrity of this area. It will also make it easier for the NPS to just say no to those who advocate unnecessary and undesirable road projects.

The detrimental effects of highway construction are well documented. We all depend on highways and up to a point we must accept them. Of course, every reasonable effort should be made to alleviate their environmental damage Where the roads are not needed, we should not subject ourselves to the expense and the environmental damage associated with their construction. A letter from Smokies Superintendent Randall Pope to Senator Terry Sanford, dated April 27, 1987, highlights our concerns for the detrimental effects of road construction in this area. A copy of this letter is attached to this statement for the record of this hearing.

Even this bill, S.693, that we wholeheartedly support, and its companion bill in the House, H.R.1495, leave corridors which in the future will, in my opinion, become the subjects of controversial road proposals, but with 467,000 acres under protection, the size of the battleground will be significantly reduced.

As you know, east Tennessee and western North Carolina are a part of the Appalachian Mountains which extend from Georgia and Alabama to Canada. In this region where many of the moutain summits are more than 6,000 feet above sea level, driving to observe the scenery, particularly in the fall, is an important form of recreation. Here in east Tennessee and western

North Carolina, we have thousands of miles of roads that provide unlimited opportunities in a relatively small part of the United States for this activity, on every type of road from interstates to the roughest off-road vehicle track. Here, as a part of the very heavily populated eastern United States, we also have a shortage of wilderness areas. Those in our national forests are small and the probability of adding to them is very, very low even though this region of the United States is the destination for millions of outdoor-oriented visitors each year. No more roads are needed in the Smokies.

In 1975, a coalition of conservation organizations led by the SMHC prepared a draft wilderness bill for a 475,000 acre Great Smoky Mountains Wilderness, and we discussed it with Senator Sasser after his election to the Senate in 1976. In 1977, Senator Sasser introduced our bill but there was no House bill, and no action was taken in the Senate. In 1981, this bill was again introduced, with the same results. In January, 1982, after more than 6 years in the planning process, the General Management Plan for the Smokies was released. This plan identified 467,000 acres as Natural Environment Type 1, land which the NPS agrees meets the criteria for inclusion in the wilderness system, and it includes most of the area proposed for wilderness protection in our 1977 and 1981 bills.

Again in 1983, Senator Sasser cosponsored a Smokies wilderness bill, this time limiting the area to be designated as wilderness to the 467,000 acres defined as Natural Environment Type 1 in the General Management Plan. That is also the area that would now be designated wilderness by S.693. All of the bills sponsored or cosponsored by Senator Sasser have been good bills and we have supported them. The County Commission of Swain County, North Carolina, which would eventually receive a lump sum payment in lieu of the construction of a road north of Fontana Lake, which the county was promised in 1943, has agreed to this means of settling the controversy over this road. They also agreed to this in 1983. The Tennessee Valley Authority which is also a party involved in the road controversy would also like to see the issue settled and has no objection to including the controversial 44,000 acre tract in the wilderness system. Only a few people, for reasons that appear illogical, oppose this bill.

We recognize the need for access to the cemeteries north of Fontana Lake. The current means of access (whereby the NPS provides transportation across the lake and, where needed, land transportation north of the lake on the unimproved access routes that were used before there was a park) has always been supported by the SMHC, and we consider this to be a reasonable means of access. The importance of the cemeteries and access to them is easily understandable. I have personally visited many of them and since all of my deceased relatives are buried in similar mountain plots in Virginia and West Virginia, some of which have disappeared forever, it is a familiar scene but not one for which I would sacrifice a wilderness area.

Following the passage of the Wilderness Act in 1964, the first wilderness proposal prepared by the NPS was one for the Smokies in 1965. It was a proposal that left much to be desired but it further illustrates the long-standing interest in legislative protection for the Smokies wilderness as has my summary here of the earlier attempts to pass suitable legislation. The passage of an acceptable wilderness bill is long overdue and the settlement of the controversy over the road promised Swain County is also long overdue. If the 100th Congress cannot pass an acceptable wilderness bill, I doubt that such legislation will ever be passed in my lifetime and the controversy over road construction north of Fontana Lake will continue indefinitely.

S.695 is not an acceptable wilderness bill.

Senator **Bumpers**. Thank you very much, Mr. Payne.
Mr. Snyder.

STATEMENT OF THEODORE A. SNYDER, JR., GREAT SMOKY MOUNTAIN WILDERNESS ADVOCATES, WALHALLA, SC

Mr. **Snyder**. Mr. Chairman, I speak for the Great Smoky Mountains Wilderness Advocates, which is an umbrella organization representing not just the national environmental clubs, but the local ones like the Carolina Mountain Club and the Tennessee Trails Association.

Senate bill S. 693 is a compromise between our positions and those of the people of Swain County. It has taken a long time to craft that compromise. I have been involved in it from the start. We first started talking to the people in Swain County back in the early 1970s when the Governor of North Carolina hosted a series of meetings between the signatories of the 1943 contract, and he added Ray Payne and myself to the negotiators to see if something couldn't be worked out. We negotiated over a period of about 3 years.

We started off with the two conflicting positions. The environmental community was adamantly opposed to any road construction, but wanted wilderness designation for most of the Smokies. The Swain County Commissioners wanted the construction of a road. It was finally recognized that the environmental laws that had been passed since 1943 effectively would prohibit the building of a road on the north shore of Fontana. At the same time the conservationist recognized that Swain County was entitled to some due under the contract. So, we struck what is often done in contract law—we struck on the idea of a substituted performance, the payment of a sum of money as a substitute for the building of the road. And so we crafted the compromise which is now embodied in S. 693 that there would be wilderness designation for most of the Smokies with no road building, and that Swain County would be compromised by a substitute performance. That has been carefully wrought.

It has the support of all of the environmental organizations. It has the support of the majority of the people of Swain County. So, it's not just a compromise, although it is a compromise, but it also reflects as a compromise a consensus between all the people who were concerned and involved in the issue of Smokies wilderness and the Swain County problem. And we have agreed that those should be tied together in one bill so that we, the conservationists, would support Swain County's rights and claims, and they at the same time would support what we want.

And we've got that in S. 693, and we are supporting each other in that. And it reflects a consensus, and it represents a hard worked-out compromise of these various issues. It has been difficult to reach, but it is the best that can be reached. And we submit that it probably is the best that in our time can be achieved to solve these problems.

In addition to my statement, which has been turned in, I point out that Harvey Broom, the late chairman of the Smoky Mountains Hiking Club, was the first person who was extensively involved in this issue. And in effect, we speak for his ghost, if there is a way of doing that. He was followed in working on the Great Smokies issue by Ernie Dickerman. Mr. Dickerman is here. We couldn't find time for him to speak, but I have his statement, and I would like that his statement be added to the record.*

Senator BUMPERS. Without objection, it will be admitted.

Mr. SNYDER. Thank you, sir.

[The prepared statement of Mr. Snyder follows:]

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* See appendix II.

STATEMENT OF THE GREAT SMOKY MOUNTAINS WILDERNESS ADVOCATES

ON

S. 693

TO DESIGNATE A GREAT SMOKY MOUNTAINS WILDERNESS
AND FOR THE RELIEF OF SWAIN COUNTY, N. C.

BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

WASHINGTON, D. C.
22 June 1987

DELIVERED BY
THEODORE A. SNYDER, JR.
of WALHALLA, SOUTH CAROLINA

STATEMENT OF THE GREAT SMOKY MOUNTAINS WILDERNESS ADVOCATES

The Great Smoky Mountains Wilderness Advocates endorse S. 693, and urges the Senate to pass it.

We support strongly the designation of 467,000 acres as the Great Smoky Mountains Wilderness. We could not support a Wilderness of lesser size in the Great Smoky Mountains National Park.

At the same time, the Advocates support the provisions of the S. 693 which would end the 1943 road contract controversy by a payment of $9.5 million to Swain County, North Carolina, and the forgiveness of a debt on its new high school.

The Great Smoky Mountains Wilderness Advocates are adamantly opposed to the construction of any road along the north shore of Fontana Lake, modern or primitive, gated or ungated. We support the right of access to cemeteries on the north shore by the means now furnished by the National Park Service.

S. 963 embodies a compromise between conservationists and the parties to the 1943 road agreement, particularly Swain County, North Carolina. Since 1966, when field hearings were first conducted, conservationists have been urging wilderness designation of a major portion of the Great Smoky Mountains National Park. During all the years since then, elected officials and citizens of Swain County have been seeking performance of the 1943 Agreement. It has been long apparent that the two issues were intertwined and must be resolved together. The compromise effects that combination.

HISTORY OF THE 1943 AGREEMENT

The 1943 Agreement has as parties TVA, The Department of the Interior, Swain County, North Carolina and the State of North Carolina. These parties agreed that TVA would acquire 44,000 acres of land within the originally contemplated park boundary, but for which acquisition funds had been unavailable, and would donate that land to the Department of the Interior for inclusion in the Great Smoky Mountains National Park. The Department of the Interior, as payment for this land, agreed to discharge the obligation of TVA to compensate Swain County and the State of North Carolina for a road which was being flooded by Fontana Dam, then under construction by TVA. The compensation was to take the form of a replacement road to be built by Interior along the north shore of Fontana Lake. The contract provided, however, that the obligation to build the road was contingent, using this language:

> "The obligation of the Department /of the Interior/ to construct or provide for the construction of a park road as defined in section 4 shall be subject to and contingent in all respects upon the appropriation by Congress of all funds necessary for such construction, and failure on the part of Congress for any reason to make such appropriations shall not constitute a breach or violation of this Agreement by the Department or any other party hereto."

It was contemplated that the road would be build after the end of World War II, there being neither materials nor manpower available for it in 1943. After the war Congress did appropriate some money for short segments of the road, and some work was done at each end.

However, progress was very slow.

In 1968 George Hartzog, then Director of the National Park Service, made a new proposal to satisfy the obligation of Interior by substituting a trans-mountain road from Bryson City, North Carolina to Townsend, Tennessee. Violent opposition by conservation groups prevented this proposal being carried through.

COMPROMISE NEGOTIATIONS

The road issue then rested until the early 1970's when Sierra Club volunteers approached the Swain County Commissioners, in an effort to open a dialogue. As soon as it appeared there was a potential for productive discussions, the Governor of North Carolina agreed to sponsor them.

A series of meetings was then held over a period of years. The Governor made available his executive mansion in Asheville, and provided staff support. Those who participated were the Swain County Commissioners, representatives of the National Park Service, TVA, and the State of North Carolina. All of these were representatives of the parties to the original 1943 road contract. Significantly, two representatives from the conservation community were invited to join the discussions. This was done in recognition of the fact that conservationists would have great influence in the success or failure of any plan the meetings might produce, and therefore they should help shape the plan. H. Ray Payne of Knoxville, of the Smoky Mountains Hiking Club, and Theodore A. Snyder, Jr., of the Sierra Club (President of the Sierra Club, 1978-1980) were these delegates.

At the meetings many proposals were put forward and considered. Among those discussed were various road routings, including the original north shore route, the trans-mountain route, and routes converting the existing segments into loop roads.

Finally, from these discussions, two elemental principles emerged. These were:

1. The conservation community was unalterably opposed to any further road construction in the park along the route of the proposed north shore road, or along the route of the proposed trans-mountain road. It was recognized that the conservation community had the backing and influence to prevent any further construction of the road on either of these routes.

This view was supported by reference to strong environmental laws that had been enacted since 1943. Importantly, these included:

a. The National Environmental Policy Act (42 USC 4321 et seq., P.L. 91-190). This law was especially signigicant in view of the knowledge that the Anakeesta Formation had been struck on the short segment of the north shore road previously built. Acid leaching from the rocks of this formation had a devastating effect on all forms of life in the streams it entered. Also, because of the steep topography, any road, no matter how primitive, would create severe changes in the land form. Further, any road would interrupt and dislocate movement and circulation in pristine wildlife habitat.

b. The Department of Transportation Act (4 9 U.S.C 303, P.L. 97-449, and its predecessor sections, particularly 49 U.S.C. 1653 (f)). This law provides, in pertinent part:

> "The Secretary may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance, or land of an historical site of national, State or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge or site) only if --
>
> (1) There is no prudent and feasible alternative to using that land;..."

That there was feasible alternative was clearly demonstrated. A road to replace the flooded road has been constructed on the south side of Fontana Reservior, and it now provides the sought connection between Deal's Gap and Bryson City. The Park Service is providing a feasible alternate access to the cemeteries by a combination of boat and road vehicle, and that access is to be specifically preserved in the bill under consideration.

c. The Federal Aid Highways Act, (23 U.S.C. 138, P.L. 89-574). This act sets forth policies which are uniform as to all Federal roads, which are public roads, as specified in Section 204 which establishes the Federal Lands Highway Program. Section 138 declares that it is the national policy that a special effort should be made to preserve public park and recreation lands. To that end, the act requires:

> "...the Secretary /of Transportation/ shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of

> national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land,..."

As pointed out about not only are there feasible and prudent alternatives, but those alternatives are in fact in place and in use.

The large number of Court decisions interpreting these laws make it clear beyond argument that no road building on the north shore of Fontana Lake could pass legal muster.

In addition to the clear legal authority prohibiting construction of a north shore road, the interested parties recognized that the conservation community had strong political influence on an issue such as this. That influence had been sufficient to stop the trans-mountain road proposal, and was considered to be strong enough to stop any other road building proposals.

2. There was another side to this coin. It was clear that Swain County, North Carolina, had a right to some relief under the terms of the 1943 Agreement. We all considered that Swain County had its share of political influence, and that it could stop any wilderness legislation until there was a resolution of its rights under the contract.

Since the promise of the Department of the Interior was contingent on appropriations by Congress, there was no legal right which Swain County could enforce in a Court. Clearly, however, Swain County was entitled to some redress. Since the various environmental laws had made building a road impossible, the delegates at these meetings looked for other solutions.

Finally, the idea of a substitute performance emerged as a likely basis for compromise.

The concept of substituated performance is one firmly embedded in contract law. When one promised performance becomes impossible, the parties may substitute an alternate one, if they can agree. One substitute performance had already been proposed in the form of a trans-mountain road from Bryson City to Townsend, Tennessee. Accordingly the persons involved in the discussions turned their attention to other possible substitute performances that might be acceptable to Swain County.

Ultimately a twelve-point package of performances was developed and agreed to. The Agreement included agreement by the conservation representatives. An essential point in this Agreement was the payment of a lump sum of money to Swain County. A number of other points agreed upon were put into effect at once.

While payment of a lump sum of money was a key element of the compromise, the amount of the lump sum payment was not developed at these meetings. The conservation community agreed to support whatever amount that the principal contracting parties could agree to. At one point the discussion group met in Washington, D.C. with Nathaniel Reed, then Assistant Secretary of the Interior. He was able to agree on all the points. When the question of the amount of money needed for the lump sum was raised, the initial claim of Swain County was so high it was rejected out-of-hand. There the issue rested for a period of months.

About 1979 Cecil D. Andrus, then Secretary of the Interior appointed a committee of representatives of the contract parties to meet anew to consider a settlement of the controversy. The committee held a number of meetings and ultimately agreed again on the same 12-point settlement proposal. This committee then took the second step of negotiating a sum of money to be paid as the substitute performance.

A formula was worked out which yielded the sum of 9.5 million dollars as appropriate lump sum compensation. The formula was based on a calculation of the 1940 cost of building the road, with compound interest on that sum at 5 percent per annum.

The parties also agreed upon forgiveness of a loan to Farmer's Home Administration on the new Bryson City High School.

While the Department of the Interior had no authority to pay these sums, in 1980 Cecil D. Andrus pledged it to support congressional initiative for appropriations of these sums.

An integral part of all the agreements was that any legislation to resolve the 1943 contract problem would combine wilderness designation for the Smokies with relief for Swain County.

This was plainly and openly a political compromise. Swain County secured the support for its financial settlement, which it might not otherwise have; the conservation community secured the support of Swain County for its wilderness designation, which it might not have. Such a compromise would merit, and deservedly merit the support of most, if not all, interested persons.

That compromise is embodied in S. 693 now before this committee.

The conservation community supports the financial relief proposed for Swain County; Swain County supports the wilderness designation which the conservation community seeks.

It has taken 15 years or so to work out this compromise. While it may seem simple and clear now, it has been a long and difficult process for us to reach agreement. We ask you give credit to our efforts by approving our agreement, as embodied in S. 693.

Senator Helms' bill S. 695, cannot be supported by us. It removes a key element of the compromise which is that there be no road on the north shore.

FINANCIAL RELIEF FOR SWAIN COUNTY

The Great Smoky Mountains Wilderness Advocates support the provisions of S. 693 for financial relief to Swain County, North Carolina. We support the payment of a lump sum of $9.5 million, with the terms as spelled out in the bill. We support the relief of Swain County from liability to finish paying the loan to the Farmers Home Administration on the new Bryson City High School.

The Wilderness Advocates support these two items of financial relief in the sense in which they were developed. They are a substitute performance for the obligation of the Department of the Interior to build a road on the north shore of Fontana Lake.

We support the financial relief because it is a substitute. The Great Smoky Mountains Wilderness Advocates cannot and will not support any form of bill that allows a road to be built in addition to the financial relief. The financial relief must be a complete and exclusive substitute for any further road building.

CEMETERY ACCESS

The Wilderness Advocates believe that the access now provided to cemeteries on the north shore of Fontana Lake is adequate.

The National Park Service now provides boat service across Fontana Lake for cemetery visitors. Inside the park it provides motorized transportation on administrative roads to the major cemeteries.

We support the language in S. 693 which is deemed necessary to assure such access permanently, as it now occurs.

Access as it now is provided was one of the points of the 12-point agreement reached in the 1970's and again in 1980. Neither those agreements nor any discussions have contemplated road access along the north shore of Fontana Lake to the cemeteries.

When TVA acquired the 44,000 acres of land near Bryson City, it was acutely aware of the cemetery problem. It established a new cemetery at Lauada to which graves in the Fontana lakesite were removed. It offered this option to families interested in some 21 cemeteries in the 44,000 acres area. One of these was removed to Lauada at the request of the relatives. The relatives of the families in the other twenty cemeteries signed Agreements rejecting removal, with the express caution written in them that after the filling of Fontana Lake they would be "isolated". TVA made it clear no road access would be provided by it unless the cemeteries were moved.

The 1943 Agreement does not mention cemeteries or cemetery access at all.

A number of the remaining cemeteries are not visited or attended by the descendants of the persons buried there.

Recently a group of persons claiming to have an interest in the cemeteries filed suit in United States District Court seeking to establish rights of motor access. The United States District Court, on 10 November 1983, entered an Order holding these people had no legal right to motorized access to the cemeteries, and no right to enforce performance of the 1943 Agreement. See Helen Vance, et al. v. Tennessee Valley Authority, et al., U.S. District Court for the Western District of North Carolina, Bryson City Division, Case No. B-C-83-172. That case was affirmed on appeal, 738 F. 2d 1418. When application for a writ of Certiorari was made to the U.S. Supreme Court, it denied the writ. 470 U.S. 1027, 84 LEd2d 782, 105 S. Ct. 1393. This case has decided for all time that no one has a legal right to access to any cemetery on the north shore. The rights of access guaranteed by S. 693, which we support, accord to those persons ample and fair provisions for visiting the grave sites of their relatives.

A road cannot be built along the north shore of Fontana Lake to these cemeteries without causing enormous environmental damage. The Anakeesta Formation is certain to be encountered again, with resulting severe acid leaching. The topography is precipitous, and even the narrowest road would require massive cuts and fills; a vast amount of disturbance of the natural soil. No investigation has been made to determine what endangered plants may lie in its path.

Perhaps the greatest damage would be done to the intangible wilderness value through which such a road must cut and slash. Along the north shore the forest now comes down to the lake waters, in an unbroken expanse of natural forest from the crest of the Smokies. It would violate the integrity of a great tract of wilderness to have a road gouged out of it. Nothing destroys the sense of being at one with nature than to come across an obtruding road. It is not necessary to mention that one cannot have a wilderness experience by walking down a road, yet we know that any road here would have to displace an existing trail.

Worst of all though is the certain knowledge that a road, even a primitive road, is permanent. It would be a permanent intrusion into what should be a wilderness. A primitive road is only an entering wedge. Once any road it built, the pressure would immediately mount for widening, then paving, then straightening, and so on, endlessly, until the road became the chief feature of the landscape. We believe nature should be the chief feature of the landscape in the Great Smoky Mountains National Park.

The Great Smoky Mountains Wilderness Advocates pledge their utmost effort, by all legitimate means, to prevent the construction of any road on the north shore of Fontana Lake, primitive or not, gated or not.

The free cemetery access across Fontana Lake, now provided by the National Park Service, is adequate and in keeping with the wilderness character of the park.

DESIGNATION OF A 467,000 ACRE WILDERNESS

The Great Smoky Mountains Wilderness Advocates support and strongly urge the designation of 467,000 acres as the Great Smoky Mountains Wilderness.

The Great Smoky Mountains National Park encompasses the largest and highest mountain wilderness in the eastern United State. The great expanse of the park is broken but once in a significant way, that is by the Newfound Gap Road, U.S. 441. On either side of that road lie huge tracts of mountain fastnesses.

The steep and heavily forested slopes hold out the wilderness promise of solitude and opportunity for primitive and unconfined recreation. Pure water gushes from its streams.

One-third of this mountain wilderness is virgin forest. The remainder has been undisturbed now for 50 years, with little exception. In that time it has recovered markedly. Today it generally appears to have been primarily affected by the forces of nature. The marks of man's prior use have been largely smoothed over and are being erased. In many of the remote valleys the regrowth has been remarkable. To the ordinary observer this is the primeval forest.

A good system of trails invites recreation of a primitive type. The user is enticed to exercise his or her abilities to live in harmony with nature.

The portion of the park lying north of Fontana Lake, including the 44,000 acre TVA tract is exceptional in terms of wilderness qualities.

This lake has shielded this area from heavy use by restricting access to watercraft. No roads intrude into it. Here the visitor can hike for several days without reaching a roadhead or major access point. Other visitors are few, and the presence of nature is overwhelming.

The designation of the park as an International Biosphere Reserve is a testament to its unique nature as an outdoor laboratory. Here is a tract of land of sufficient size to allow the complete interaction of plants and animals. The relatively undisturbed nature of the land allows for study of native plants and animals in their original environment. Because of the topography, the effects of altitude on distribution and interactions can be studied, as well as relationships of species living side-by-side. Everything possible should be done to maintain and preserve these natural, undisturbed conditions. Inclusion of the 44,000 acre TVA tract in wilderness is an essential part of protecting this area for science.

Animals as well as plants will benefit from the designation of a 467,000 acre wilderness. It is well known that Black Bear require an extensive range of unbroken territory for habitat. It is suggested that the minimum is 20,000 acres per animal.

The endangered eastern Cougar requires an even greater range. Protection of the Cougar has been especially difficult since destruction of the American Chestnut forest, and the animals dependent on it, a major part of the Cougar's food supply. Today the Cougar must range over a much vaster territory to sustain itself. Only in a place such as the proposed Great Smoky Mountains Wilderness can this

Cougar find a hospitable range.

The designation of 467,000 acres as wilderness is strongly supported by us. However, we view this as a minimum. We could not and would not support a bill with less acreage, one that omitted the 44,000 acre TVA tract, for example. While there has been considerable talk of deleting this tract, we can perceive no way in which it differs from the proposed wilderness surrounding it. Nor is there any logical explanation why it should be omitted. In every respect it is an intergral part of the proposed wilderness. Our support for the Great Smoky Mountain Wilderness is predicated on its inclusion in the area designated as wilderness.

SUMMARY

The Great Smoky Mountains Wilderness Advocates support designation of 467,000 acres as the Great Smoky Mountain Wilderness.

We oppose any effort to remove 44,000 acres from the proposed wilderness area, and we oppose any effort to build any road along the north shore of Fontana Lake. We will actively oppose both by all means available to us.

The Great Smoky Mountains Wilderness Advocates support the payment of $9.5 million to Swain County and the release of its debt on the Bryson City High School. We will support any amendments that combine the authorization and appropriation process for this financial relief. We regard this as a substitute performance of the 1943 Agreement, which is a complete and final satisfactin. We will not support any bill which combines a financial settlement and road construction.

22 June 1987

Respectfully submitted,

Theodore A. Snyder, Jr.

THEODORE A. SNYDER, JR.
for the
Great Smoky Mountains Wilderness Advocates

Senator BUMPERS. Thank you very much, Mr. Snyder. That was a good statement.

Mr. Tipton.

STATEMENT OF RONALD J. TIPTON, SOUTHEAST REGIONAL DIRECTOR, THE WILDERNESS SOCIETY

Mr. TIPTON. Thank you, Mr. Chairman.

I am here on behalf of the Wilderness Society as our Southeast Regional Director in strong support of S. 693 as written. Indeed, this is the first time in the history of this issue that we have had active support from senators from both affected states for the same legislation.

Wilderness protection and management for this park has been a primary objective for my organization really since the very day we were founded 52 years ago east of Knoxville, TN. As you suggested in some of your comments earlier, it is long past time to resolve this controversy. These two gentlemen have spent countless hours over the last 25 years as volunteers in working on behalf of the Great Smoky Mountains Wilderness Bill.

In fact, we would argue that the Great Smoky Mountains Park Wilderness is the highest priority national park wilderness in the entire system yet to be designated to give you an idea of the priority we place on this. Never has Congress had an opportunity like this to do it.

I want to anticipate the testimony of the good Director of the National Park Service, William Penn Mott, on the point of potential wilderness for the 44,000 acres. We believe that the Park Service would like to see legislation passed to designate wilderness. We would respectfully disagree with them on one point, and that is we don't feel there is any need to have potential wilderness. Immediate wilderness designation is appropriate.

The Park Service will argue, and I think it is more a departmental position actually, that because of outstanding third party rights, potential wilderness is appropriate for those 44,000 acres, the so-called TVA tract. Well, many of these rights no longer exist under State law, and only in one instance in 40 years has anyone attempted to exercise one of these mineral rights, rights of access, rights to cut timber. This is separate now from cemetery access.

In fact, I have a statement to submit for the record on behalf of Mr. Leroy Fox of Knoxville, who is the predecessor of Mr. Murphy as the Great Smoky Mountains Park Commission chairman, which includes a legal memo from the law firm of Baker & Stansberry of Knoxville which was founded by Howard Baker, Sr. And that legal memo points out that there are reasonable reasons legally why we can do wilderness for the 44,000 acres right now. And I would like to see that become part of the hearing record.

Now, on the point of the—I will not belabor the point of the $9.5 million except to say that we completely support that $9.5 million appropriation. And in fact, I will commit our organization to lobby aggressively for the appropriation that would be necessary if this legislation is passed by the Congress, recognizing this is just an authorization.

We are, of course, strongly opposed to section 5(b)(1) of S. 695, which would require the building of the road. It is unnecessary. It is unwise. It's economically unjustified. And we believe it would result both in environmental damage to the park and to increased poaching. In fact, it is our organization's position that no bill would be better than the Helms' bill.

We do support section 2(b)(2) of S. 693, which would provide for the continuation of the existing access which is, by the way, by motorboat and a four-wheel drive van, not by horse-drawn carriage, up into the park. That service is being provided at a cost of approximately $60,000 to the Federal taxpayer, but we believe it is justified.

It also—and I want to underscore this—is a special exception to the management of wilderness. The Park Service itself will not access this area for administrative purposes the way they will permit the cemetery groups to go visit the park. So, we are strongly in support of that.

Finally, I would just summarize by saying that the Congress has a historic opportunity to officially establish what I believe is the finest wilderness area in the eastern United States and, in fact, probably in eastern North America, to resolve Swain County's legitimate financial claims, and to permanently guarantee access to park cemeteries. And S. 693 would accomplish all of these objectives. And we recommend its immediate enactment.

Thank you.

[The prepared statement of Mr. Tipton follows:]

THE WILDERNESS SOCIETY

SOUTHEAST REGION

TESTIMONY OF RONALD J. TIPTON, SOUTHEAST REGIONAL DIRECTOR, THE WILDERNESS SOCIETY, BEFORE THE SENATE PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE, ON S. 693 AND S.695, LEGISLATION TO DESIGNATE A GREAT SMOKY MOUNTAINS NATIONAL PARK WILDERNESS, JUNE 23, 1987

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today on behalf of The Wilderness Society's 175,000 members to discuss S. 693 and S. 695, two bills to designate wilderness in the Great Smoky Mountains National Park.

I am testifying in strong support of S. 693 as introduced by Senators Jim Sasser, Terry Sanford and Al Gore, and in opposition to Senator Jesse Helms' bill, S.695. Indeed, this is the first time in history that Senators from both North Carolina and Tennessee are actively supporting comprehensive wilderness legislation for the Park. We applaud the Senators for their leadership on this issue.

Wilderness protection and management for most of the Great Smokies has been a primary objective for The Wilderness Society since our organization was formed 52 years ago in the foothills of the Park near Knoxville. We believe the Smokies represent the greatest single repository

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of wilderness and ecological diversity in the eastern United States. The Park includes the only extensive virgin forests in the east -- about 200,000 acres -- and a superb variety of flora and fauna. It is a botanical and ecological wonderland, containing a greater variety of plant life and tree species then any area of comparable size in the country.

Never has Congress had such an opportunity to finally preserve one of our great wilderness resources, and to resolve some important long-standing problems related to the history of the Park. As the Subcommittee will hear today, a broad coalition of conservation organizations, local government officials, political representatives, and business, travel and tourism organizations favor the passage of S. 693. One of the reasons this legislation enjoys such strong support is that it will simply ratify the status quo by designating as wilderness those lands in the Park not already developed and currently being managed to preserve natural values and wilderness integrity. In short, S. 693 would establish the largest mountain wilderness area in eastern North America, yet it would in no way reduce the recreation opportunities currently enjoyed by those who visit the Park. This is extremely important, given that the Great Smokies receive nearly 10 million recreation visits annually, and the number continues to increase each year.

The Wilderness Society, the Sierra Club, the Smoky Mountain Hiking Club, the Great Smoky Mountains Wilderness Advocates, and many other conservation organizations strongly favor immediate wilderness designation of the entire 465,000 acres contained in S. 693. We respectfully disagree with the Park Service's recommendation that the 44,000 acre tract transferred to it by the Tennessee Valley Authority (TVA) become potential wilderness due to outstanding third party rights. Many of these rights no longer exist under state law; in only one instance during the past 40 years has anyone attempted to exercise such a claim, and it was immediately acquired by TVA. TVA has agreed to "at all times protect the Department from any interference with or restriction upon the Department's use of said lands for park purposes where such interference or restriction arises out of the exercise or assertion of outstanding mineral rights or interests." Mr. Leroy Fox of Knoxville, Tennessee has submitted to the Subcommittee a legal opinion from William H. Skelton, Esq. of the Knoxville office of the law firm of Baker, Worthington, Crossley, Stansberry, and Woolf which explains in detail why these outstanding third party rights should not in any way affect wilderness designation for the 44,000 acre tract.

I also want to strongly underscore our strong support for the provisions of both S. 693 and S. 695 that compensate Swain County, North Carolina for the failure of the Park

Service to complete building of a road on the north shore of Fontana Lake between Bryson City and Fontana Village. Just compensation in lieu of completion of the road was worked out in 1980 by a federal-state-local commission established by Interior Secretary Cecil Andrus. We are completely in agreement with the principle that the federal government has a moral obligation to pay back with interest the money Swain County expended on the road before its construction was abandoned due to severe landsliding and other environmental damage to park resources. Should S. 693 be enacted, the environmental community will lobby aggressively for appropriation of the full $9.5 million as quickly as possible. I urge the Subcommittee to endorse this important provision of both bills.

Access to North Shore Cemeteries

We are strongly opposed to Section 5(b)(1) of the Helms bill, which would require the Park Service to build a new road in the park from the western terminus of the incomplete North Shore road to the site of the former village of Proctor in the Hazel Creek area of the Park. Such a road is unnecessary, unwise, economically unjustified, and would result in increased poaching and severe environmental damage to this remote part of the Park. In a letter dated April 23, 1987 from Great Smoky Mountains Park Superintendent Randall R. Pope to Senator Sanford, the Park Service points out "There are major concerns surrounding any road construction in the Smoky Mountains because of the potential of exposing the Anakeesta rock formation which contains iron pyrite and heavy metals. Once Anakeesta rocks are exposed they oxidize, and acids and heavy metals are leached by rainfall... There is good evidence to support the likelihood of encountering pockets of Anakeesta rock in the [Fontana] lake area."

Furthermore, Superintendent Pope states "The very necessity of extensive road cuts and fills to maintain grade specifications to standard would compromise, aesthetically, many of the very scenic reasons visitors come to the area. Unfortunately, there is also an inverse relationship between wildlife abundance, especially bears, and the number of roads in an area. With the quickly diminishing wildlife habitat outside the Park, maintaining the integrity of the Park interior becomes an even more critical need."

We do support Section 2(b)(2) of S. 693, which provides for the continuation of permanent special access to cemeteries located within the Hazel Creek area as set forth in the current General Management Plan for the Park. I have had the opportunity to accompany the Park Service on a typical boat ride across Fontana Lake and van trip to one of the North Shore cemeteries. It was a relatively comfortable and pleasant excursion and took less than an hour. In cooperation with the North Shore Historical Association, the Park Service has scheduled 11 such trips during 1987. While the total annual cost of this program exceeds $60,000, we believe it is worth this investment by the taxpayers in order to allow people to visit their families' gravesites. The Subcommittee must understand this is a special exception to normal wilderness management policies which would normally not permit such vehicle access into a wilderness area.

I would like to submit for the hearing record with my testimony a recent column written by Will Curtis, titled "North Shore Folks Have It Better Than Most of Us", that appeared on the editorial page of the Asheville, North Carolina Citizen-Times on May 3, 1987. Mr. Curtis' eloquently written essay describes far better than I can why wilderness legislation coupled with the Swain County settlement provisions and guaranteed special cemetery access is a fair and just resolution to the Great Smokies Wilderness controversy.

Finally, we have several specific recommendations for report language to accompany S. 693. First, we request the Subcommittee consider adopting language which assures that the Parsons Branch road into Cades Cove in the Tennessee side of the Park is maintained in its current condition, and is not upgraded to a major park road. The Parsons Branch road is not within the boundaries of the proposed wilderness, and we are not opposed to its current level of use. However, we believe it is important to make certain it is not converted into a major trans-mountain highway.

We request the Subcommittee specify in its report that the proposed Benton Mackaye Trail from northern Georgia to the Great Smokies is compatible with the wilderness designation for the Park. This approximately 270 mile trail begins at Springer Mountain, Georgia, the starting point for the Appalachian Trail, and will terminate in the Park. Almost all of the route in Georgia is already constructed; it is important that wilderness status for the Park not interfere with plans for the Benton Mackaye Trail. We believe they are mutually compatible.

We also support the standard language concerning management of the Appalachian Trail and related structures and facilities within designated wilderness that has been included in other recent wilderness legislation approved by the Congress. We agree completely with the views of the Appalachian Trail Conference on this issue, and recommend the Subcommittee adopt the report language recommended by the Conference.

This Congress has the historic opportunity to officially establish the finest wilderness area in the eastern United States, to resolve Swain County's legitimate financial claims, and to permanently guarantee access to park cemeteries. S. 693 would accomplish all of these objectives. We recommend its immediate enactment.

I would be pleased to answer any questions.

Asheville Citizen Times, Sun., May 3, 1987

North Shore Folks Have It Better Than Most Of Us

Will Curtis

Members of the North Shore Cemetery Association see themselves as a small and persecuted group. Forty-four years ago the federal government pushed their families off their land to make way for Fontana Lake. Now the government refuses to build a road through the Great Smoky Mountains National Park so they can travel with ease to visit their old homesteads and family cemeteries.

If this were reason to feel sorry for one's self, Western North Carolina would be a sad place indeed. If this were reason to demand "justice," the mountains would ring with anguished cries.

The few dozen families and their descendants who make up the cemetery association are fortunate. At least they can get to their cemeteries. Many other mountain people cannot.

Who speaks for these silent thousands? Who acknowledges the sacrifices their families made? Who even remembers what they did?

Certainly not members of the North Shore Cemetery Association. They are too wrapped up in their own tiny cause, too busy demanding a privilege no one else has or could reasonably ask.

The north shore families lived on 44,000 acres that were part of a vast tract acquired for Fontana Lake. Unlike the rest of the land, those 44,000 acres were not flooded when the lake filled, so the parcel was added to the Great Smoky Mountains National Park.

The federal government built Fontana to generate the electricity to produce the aluminum to build the aircraft that helped us win World War II. That was a good reason to ask people to give up their land.

Hundreds of families did. Today, their towns, their homesteads and their cemeteries lie under the waters of Fontana. Their descendants never can go back. Only the small number of families who lived on those 44,000 acres are lucky enough to be able to visit their home places.

Thousands of other mountain families surrendered their land, and they did so for a less compelling reason — to protect the environment. The Great Smoky Mountains National Park covers more than a half-million acres. It was dotted with settlements, homes and isolated cabins. All of those people had to move out.

With the exception of Cataloochee Valley, Cades Cove and a few other areas, most of those homesteads cannot easily be reached. Cemeteries by the score lie scattered throughout the park. Many are in the backcountry, in areas of the park managed as wilderness. You can get to them only by walking.

The Smokies were not the first. Pisgah and Nantahala national forests cover more than 1 million acres. Much of this land was settled also.

In 1911, when a Smoky Mountains National Park still was only a gleam in the eye of Horace Kephart, Congress adopted the Weeks Act. This law empowered the U.S. Forest Service to buy and restore land "necessary for the protection of navigable streams."

It was the Weeks Act by which our government acquired most of the national forests in the East. Much of it was land that had been devastated by timber barons and was in sore need of restoration.

The first parcel of land acquired under the Weeks Act was Curtis Creek near Old Fort. As would happen to thousands of other mountain people, the families who lived there were forced to sell their land to the government and move out.

Two of them were the Silvers and the Carver families, who had come to Curtis Creek in the 1800s from the Mitchell County area. I happen to know about them, because they were the families of my maternal grandparents.

Cemeteries? They are there too. One of them is the cemetery of the Curtis family, which settled the valley in the 1790s and for whom the creek is named.

The cemetery was lost for many years. Even my father did not know where it was. I found it some years ago, through the kind help of a woman who lives on the creek and whose sons had stumbled upon the plot while roaming the woods.

It's a small cemetery, on a ridge that rises above the creek and its bottomlands. Most of the graves are marked by rocks buried in the ground. Only one grave has a carved headstone. The inscription bears a simple message: "Rev. Moses Curtis, born 1777, died 1853."

The cemetery is on national forest land, and no road goes to it. You can reach it only by walking, but I'm grateful to be able to get to it at all. In the months before he died, my father wanted to visit it, but he couldn't. He wasn't strong enough.

Members of the North Shore Cemetery Association complain because they have to travel by boat across Fontana to get to their cemeteries and take four-wheel-drive vehicles to visit some of the others. Transportation is provided by the National Park Service.

The Park Service is willing to guarantee this access in perpetuity. Some members of the association say no. They insist that the federal government build them a 20-mile-long road through the national park so they can drive to the cemeteries at their convenience.

Other members are willing to give up the road, but they insist that the 44,000-acre section of the park never be designated as wilderness, as most of the rest of the park will be. (It already is being managed as wilderness. The designation by law only will make official what the Park Service is doing anyway.)

By what right do they make these demands? They say the federal government promised them a road in 1943. It did not. The promise of a road was made to Swain County, as economic compensation for land and roads taken by the lake.

Once those 44,000 acres became part of the national park, a road became untenable. Yes, a road of some sort still could be built — at a cost of millions of tax dollars and untold environmental damage to the park — but it would not help Swain economically. Its only purpose today would be to provide road access to the cemeteries.

The federal government proposes to keep its commitment — its promise of economic compensation to Swain — by giving the county a $9.5 million monetary settlement and forgiveness of a federal loan worth nearly $2 million. Swain's annual property tax revenue totals barely $660,000. Interest on the $9.5 million alone would exceed $700,000 a year. Swain intends to use the money to build schools and to build the kind of service base it needs to generate economic development.

Members of the association have succeeded so far in blocking any such settlement. The offer was first made in 1980. Since then, Swain, a financially pressed and struggling county, has lost $7.5 million in interest and loan payments because the association has stood in the way.

Members of the group say it is only "environmental groups" and outsiders who oppose the building of a road and who favor wilderness designation. I'm not an outsider. I want to see wilderness status for the Smokies. So do most other mountain people. The last time anyone took a poll on the question, WNC residents by a huge margin favored wilderness designation for the park. Swain County residents support the proposed settlement overwhelmingly. Swain commissioners support it unanimously.

It is association members who stand in the minority, and a tiny one it is. They stand virtually alone, because their position is so plainly unreasonable.

The Park Service has offered to give them access and transportation forever. That's all they can reasonably ask. Certainly it's more than most of us have.

If having cemeteries on public land gave someone the right to demand a road, many of us could demand that roads be cut all through the Smokies and Pisgah and Nantahala. If having cemeteries there gave us the right to override public wishes on how that land is managed, our parks and forests would not be managed by the public at all.

It is only the north shore folks who insist that the taxpayers build them a road or let them decide how "their" piece of the park will be managed.

They demand a privilege that none of us has and that no one deserves — and they are holding up economic development of Swain County in their futile attempt to get it.

Senator **Bumpers**. Thank you very much.

Some of you say you have been in on the compromise forging S. 693 out over this long period of years. I hate to keep coming back to it, but how did the high school get into this compromise?

Mr. **Snyder**. Mr. Chairman, I believe that is just a way of adding to the amount of compensation for the people in Swain County.

Senator **Bumpers**. Well, now you have just confirmed what I thought about it.

Mr. **Snyder**. We support that.

Senator **Bumpers**. I don't blame Swain County for wanting that $1.6 million or whatever it is to pay off that bond issue. And there may be some legitimacy to it, but it seems to me that you cannot justify the $9½ million and the $1.6 million. If you want to take the position that if Swain County had had this money in the beginning, they could have paid for the high school and wouldn't have had to have floated a bond issue and borrow money from the Farmers Home Administration, but I don't believe you can take both positions, that you're entitled to the money of $9½ million and give you that and also the $1.6 million for the high school.

Mr. **Payne**. Mr. Chairman.

Senator **Bumpers**: Yes.

Mr. **Payne**. If I may express our opinion on that matter.

Again, it is an opinion that results from long involvement in this issue dating back to 1965 and attending numerous meetings to work out this so-called compromise.

The formula which was used to come up with the $9½ million was a formula that was worked out among all of the parties. It is again—to some extent we would have to say it's arbitrary, but nevertheless it was a formula that was agreed on and we feel has a reasonable basis. A different formula could have been used which would have resulted in a higher amount. And of course, the higher amount—the difference between the $9½ million and that higher amount could have been used to pay off the school bond indebtedness. Again, in my opinion it seemed easier to appropriate the $9½ million and simply provide for relieving of the school bond debt because getting an appropriation is going to be difficult and we, of course, are committed to work for it. But it seemed a bit simpler, at least in my opinion, to appropriate the smaller amount and provide relief for the existing school bond debt.

Senator **Bumpers**. Well, as I say, everybody here I think will be sympathetic to the $9½ million to Swain County. They are entitled to it. It has been agreed to.

And incidentally, in your willingness to help lobby for the money, try to also help us find where the money is going to come from because that's the real problem. It isn't whether or not everybody here approves of the $9½ million payment. It is that we have to, in order to do that—and of course, this committee can only authorize the expenditure of the money. I also sit on the Appropriations Committee where we have to find the money. And authorizing it is infinitely easier than finding it.

Mr. **Murphy**. Mr. Chairman.

Senator **Bumpers**. Yes.

Mr. MURPHY. Could I remind you, representing the State of Tennessee, of the dance I had to do to get Governor McWherter to support paying that much money to North Carolina.

Senator BUMPERS. Yes. I can understand that. I used to be a Governor myself.

Mr. TIPTON. Senator, on that last point, we would be glad to suggest to some places in the U.S. Forest Service budget where you could take that money.

Senator BUMPERS. You'd find an equal number of members of this committee who would disagree with that.

Thank you all very much for coming. You have all given excellent statements, very helpful to the committee, and we appreciate the time and effort you have gone to to be with us this morning.

The National Park Director, Mr. William Penn Mott, has now arrived and, Mr. Mott, we will be happy to hear from you at this point. You may feel free to summarize, Mr. Mott, if you choose. I have read your statement, but proceed however you choose.

STATEMENT OF WILLIAM PENN MOTT, JR., DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY RANDALL R. POPE, SUPERINTENDENT, GREAT SMOKY MOUNTAINS NATIONAL PARK

Mr. MOTT. Thank you, Mr. Chairman.

I appreciate this opportunity to provide your subcommittee with the views of the Department of the Interior on S. 693 and S. 695.

We strongly recommend the enactment of legislation that would designate 418,200 acres as wilderness and 46,500 acres as potential wilderness additions to the Great Smoky Mountains National Park. We also recommend that Congress provide for a $9.5 million payment to Swain County, NC in settlement of a longstanding agreement with the county. Both S. 693 and S. 695 would designate wilderness and authorize a payment to Swain County. However, the bills differ in the area designated as wilderness and in management provisions for park lands. We recommend the enactment of either bill if amended as discussed in this statement.

S. 693 would designate 467,000 acres as wilderness, and S. 695 would designate 400,000 acres as wilderness. Neither bill would designate potential wilderness. The principal difference between the wilderness proposal in the bills is that 44,200 acres of former TVA lands are designated wilderness in S. 693 and are not so designated in S. 695. These TVA lands were acquired in most cases subject to outstanding rights that included mineral rights, timber rights, rights to use as cemeteries, road access and others that are inconsistent with wilderness. The TVA lands clearly have wilderness character.

We propose, therefore, that these former TVA lands not be designated wilderness at this time, but that Congress designate them potential wilderness. Under that concept, we would add the lands to wilderness administratively when the inconsistent rights are extinguished. In the interim, the lands would be protected from development and would be managed as if they were wilderness.

We further recommend that lands adjoining the Cherokee Indian Reservation be designated as wilderness as proposed in S. 693.

S. 695 would require the Government to build a primitive road along the north shore of Fontana Lake in North Carolina to provide access to cemeteries in the Hazel Creek area of the park. Wilderness designation elsewhere in the park would not become effective until the road is completed. The bill authorizes the appropriation of $950,000 for the road.

We strongly oppose the building of this primitive access road. S. 693 does not require a road, but it does require that the National Park Service continue to provide special access to the Hazel Creek cemeteries in accordance with the 1982 General Management Plan for the park. In general that plan provides for continued maintenance of existing old roads at present standards and access to cemeteries by four-wheel drive vehicles with advance scheduling by the cemetery visitors. This is our current practice, and we will continue it in accordance with the plan.

Actually, this operation, which seems to work quite satisfactorily, costs the National Park Service in its annual budget process $16,843. This does not include the amortization cost for the boats, barges, and bridges that are involved in this access transportation program that we provide visitors to the cemetery. We strongly oppose the road requirement in S. 695. The road would be up to 20 miles long, would traverse very rough terrain causing severe environmental impacts, and would cost an estimated $4 million to construct.

S. 695 contains provisions not found in S. 693 that, one, require us to review policies on diseases, insects and forest fires to protect non-wilderness lands; two, disclaim any intent to authorize buffer zones adjacent to wilderness; and three, authorize special access for the handicapped to wilderness. We recommend against these provisions. Our policy is to control fire, insect and disease within the park where necessary to protect property outside the park. Under park management policies, facilities for the handicapped are provided in developed areas and at the threshold of the back country, but not in the back country or wilderness itself.

S. 695 also authorizes the Secretary to place a historical marker at Soco Gap. No similar provision appears in S. 693. We have done no historical studies of Soco Gap, but we would not object to placing a marker there if a study indicated it was appropriate. The Blue Ridge Parkway runs through Soco Gap and a special authorization is necessary for us to erect an informational sign on the parkway.

S. 693 contains a provision not found in S. 695 requiring the lands that the bill earlier designated as wilderness to be managed in accordance with the 1982 General Management Plan for the park. Although the plan is consistent with wilderness management, we believe the Wilderness Act, rather than a plan, should be the fundamental guide to wilderness management. We recommend that this provision, section 6 of S. 693, not be adopted.

The remaining provisions of S. 693 and S. 695 deal with settlement of the 1943 agreement under which the Department of the Interior agreed to build a replacement road within the park for the one that was to be flooded by Fontana Lake. Under the agreement, Swain County and the State of North Carolina would build that part of the road outside the park, and we would build that part inside the park.

In the mid-1960s the National Park Service began construction of the road. The State and county had already acquired the right-of-way for and built the 2.6 miles of replacement road up to the park boundary. However, new concerns about the effect of the road on park resources, as well as costs, caused the Federal Government to discontinue the project.

Although as a matter of law the Government is not liable to pay Swain County anything, nevertheless the State and the county incurred certain costs in completing part of the road acting on our promise in 1943 to build the remainder. Our information is that the county also incurred a net cost of $1.3 million over 40 years to pay for bonds used to build the original road that runs by Fontana Reservoir. If compounded, this would approximate a total of $9.5 million today. For the purposes of achieving a resolution of this longstanding issue, and subject to budget appropriation action, we have no objection to paying the county $9.5 million as required by both bills.

The bills differ in two major respects concerning the settlement. S. 693 contains a statement of settlement providing that the payment constitutes full settlement of all claims against the United States. S. 695 contains no such provision. We believe the provision is absolutely necessary if the Federal Government is to be required to make a payment to the county.

S. 695 also prohibits payment of any appropriated funds to agents or attorneys in connection with settlement of the claim. S. 693 is silent on this point. We recommend that such a provision be included.

Finally, both bills would forgive repayment of a loan made to Swain County by the Farmers Home Administration of the Department of Agriculture for construction of a high school. S. 693 clearly includes this provision as part of the settlement of the 1943 agreement. Under S. 695, however, the loan forgiveness provision stands independent of the settlement issue. We understand that the Department of Agriculture has notified the committee of its opposition to this provision.

This concludes my prepared remarks. I will be pleased to respond to any questions you or other members of the subcommittee may have.

I might say, Mr. Chairman, we think that the time has arrived to solve this problem of the payment of the $9.5 million and also to get on with declaring this area a wilderness area.

Thank you very much.

[The prepared statement of Mr. Mott follows:]

STATEMENT OF WILLIAM PENN MOTT, JR., DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 693 AND S. 695, BILLS TO DESIGNATE WILDERNESS IN GREAT SMOKY MOUNTAINS NATIONAL PARK, NORTH CAROLINA AND TENNESSEE.

June 23, 1987

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on S. 693 and S. 695.

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Wilderness.

S. 693 would designate 467,000 acres as wilderness, and S. 695 would designate 400,000 acres as wilderness. Neither bill would designate potential wilderness. The principal difference between the wilderness proposed in the bills is that 44,200 acres of former TVA lands are designated wilderness in S. 693 and are not so designated in S. 695. These lands were acquired in most cases subject to outstatnding rights that include mineral rights, timber rights, rights to use as cemeteries, road access, and others that are inconsistent with wilderness. They clearly have wilderness character, however. We propose that these former TVA lands not be designated wilderness, but that Congress designate them potential wilderness. Under that concept, we could add the land to wilderness administratively when the inconsistent rights are extinguished, but in the interim the land would be protected from development. We further recommend that lands adjoining the Cherokee Indian Reservation be designated as wilderness as proposed in S. 693.

Cemetery access.

S. 695 would require the Government to build a primitive road along the north shore of Fontana Lake in North Carolina to provide access to cemeteries in the Hazel Creek area of the park. Wilderness designated elsewhare in the park would not become effective until the road is completed. The bill authorizes the appropriation of $950,000 for the road.

S. 693 does not require a road, but it does require that the National Park Service continue to provide special access to the Hazel Creek cemeteries in accordance with the 1982 General Management Plan for the park. In general, that plan provides for continued maintenance of existing old roads at present standards and access to cemeteries by 4-wheel drive vehicles with advance scheduling by the cemetery visitors. This is our current practise, and we will continue it in accordance with the plan.

We strongly oppose the road requirement in S. 695. The road would be up to 20 miles long, would traverse very rough terrain causing severe environmental impacts, and would cost an estimated $4 millian to construct.

Special management provisions.

S. 695 contains provisions, not found in S. 693, that (1) require us to review policies on diseases, insects, and forest fires to protect nonwilderness lands, (2) disclaim any intent to authorize buffer zones adjacent to wilderness, and (3) authorize special access for the handicapped to wilderness. We recommend against these provisions. Our policy is to control fire, insect, and diseases within the park where necessary to protect property outside the park. Under park management policies, facilities for the handicapped are provided in developed areas and at the threshhold of the backcountry, but not in the backcountry or wildernss itself.

S. 695 also authorizes the Secretary to place an historical marker at Soco Gap. No similar provision appears in S. 693. We have done no historical studies of Soco Gap, but we would not object to placing a marker there if a study indicated it was appropriate. The Blue Ridge Parkway runs through Soco Gap and no special authorization is necessary for us to erect an information sign on the parkway.

S. 693 contains a provision, not found in S. 695, requiring the lands that the bill earlier designates as wilderness to be managed in accordance with the 1982 General Management Plan for the park. Although the plan is consistent with wilderness management, we believe the Wilderness Act, rather than a plan, should be the fundamental guide to wilderness management. We recommend that this provision (section 6 of S. 693) not be adopted.

Payment to Swain County.

The remaining provisions of S. 693 and S. 695 deal with settlement of the 1943 agreement under which the Department of the Interior agreed to build a replacement road within the park for one that was to be flooded by Fontana Lake. Under the agreement Swain County and the State of North Carolina would build that part of the road outside the park and we would build the part within the park. In the mid-1960s the National Park Service began construction of the road. The State and County had already acquired the right-of-way for and built the 2.6 miles of replacement road up to the park boundary. But new concerns about the effect of the road on park resources as well as costs caused the Federal Government to discontinue the project.

Although as a matter of law the Government is not liable to pay Swain County anything, nevertheless the State and the County incurred certain costs in completing part of the road, acting on our promise in 1943 to build the remainder. Our information is that the County also incurred a net cost of $1.3 million over 40 years to pay for bonds used to build the original road that runs by Fontana Reservoir. If compounded, this would approximate a total of $9.5 million today. For the purpose of achieving a resolution to this long-standing issue, and subject to budget appropriation action, we have no objection to paying the County $9.5 million as required by both bills.

The bills differ in two major respects concerning the settlement: S. 693 contains a statement of settlement, providing that the payment constitutes full settlement of all claims against the United States. S. 695 contains no such provision. We believe the provision is absolutely necessary if the Federal Government is to be required to make the payment to the County. Also, S. 695 prohibits payment of any appropriated funds to agents or attorneys in connection with settlement of the claim. S. 693 is silent on this point. We recommend that such a provision be included.

Finally, both bills would forgive repayment of a loan made to Swain county by the Farmers Home Administration of the Department of Agriculture for Construction of a high school. S. 693 clearly includes this provision as part of the settlement of the 1943 agreement. Under S. 695, however, the loan forgiveness provision stands independent of the settlement issue. We understand that the Department of Agriculture has notified the committeee of its opposition to this provision.

This concludes my prepared remarks. I will be pleased to respond to any questions you or other members of the subcommittee may have.

Senator BUMPERS. Mr. Mott, is the Park Service not effectively managing the entire 467,000 acres contained in S. 693 as wilderness?

Mr. MOTT. That's correct.

Senator BUMPERS. There really isn't any reason not to include that 44,000 acre TVA tract down there, is there?

Mr. MOTT. Our only concern is that there are these rights that we think should be cleared up.

Senator BUMPERS. Well, what are those third party rights?

Mr. MOTT. They have to do with access to the cemetery. They have to do with certain mineral rights and rights for timbering, and things of that sort. We don't——

Senator BUMPERS. Has anybody asserted any rights that would disturb the wilderness characteristics of that area?

Mr. MOTT. If some of those rights were exercised, they would disturb the wilderness characteristics of that area.

Senator BUMPERS. Well, if we declare it a wilderness area, would we be under any obligation to resolve that now? Or could we just face that when and if somebody chose to exercise those rights?

Mr. MOTT. I would suppose if, in your wisdom, you declared this area wilderness those rights would have to be adjudicated at some future time.

Senator BUMPERS. If we declare that—are there just some people who own mineral rights within that area?

Mr. MOTT. That's my understanding that there are some longstanding rights that exist.

Senator BUMPERS. Are there mineral rights owned by other people in the other 400,000 acres of the park?

Mr. MOTT. No, there are not.

Senator BUMPERS. Just in this 44,000 acre TVA tract.

Mr. MOTT. Just in the TVA properties.

Senator BUMPERS. I have been told that only one person has ever asserted any right in the last 40 years for those mineral rights in that 44,000 acres.

Mr. MOTT. That's correct. And the probability is——

Senator BUMPERS. It seems to me that is not a sufficient justification to exclude that area. Wouldn't you agree with that?

Mr. MOTT. I think personally I would agree with you.

Senator BUMPERS. That's all I'm asking for. [Laughter.]

I understand sometimes what people as a part of the administration are required to do, Mr. Mott.

Could you build this road with existing funds, or would you have to have an additional appropriation?

Mr. MOTT. We would have to have additional appropriations. We would seriously object to building the road.

Senator BUMPERS. And you certainly would seriously object to maintaining it if you had to build it, wouldn't you? I mean, that's another annual cost that you have to come to us every year for.

Mr. MOTT. That's correct.

Senator BUMPERS. Mr. Mott, I appreciate very much your good testimony and being on the side of the angels on this issue. Thank you very much for coming this morning.

Mr. MOTT. You're quite welcome, Mr. Chairman.

Senator **Bumpers**. Our next panel is Joyce Breedlove, Hubert O. Hendrie, Lee Woods, and Verna Kirkland. If you will, come around.

Ms. Breedlove, please proceed.

STATEMENT OF JOYCE POSEY BREEDLOVE, NORTH SHORE HISTORICAL ASSOCIATION, FRANKLIN, NC

Ms. **Breedlove**. Thank you.

I am Joyce Posey Breedlove. I am here today representing the North Shore Historical Association.

I have sat back there and I have listened and I still say that I come before you today with a heavy heart because too many of our elected officials, which something was pulled. I know a lot of places they are in our country. But they stand here and they seemingly forget that they were put into the office by the majority of the people. Thus, they pass acts for the moneyed minority, special interest groups they favor. By doing this, they have forced us as private citizens to use our time and our expense traveling to this great capital of ours to fight against injustices forced on us. I am a third generation who has watched and listened to the heartache and suffering that what we're talking about today has caused.

Now, then I am sitting here faced with the possibility that unless I—and my 60 something year old parents and two set of grandparents that have already died crying to go back home—that unless we can put on a backpack and health, there is no way that we're going to see this area.

The rhetoric of "for the people" that keeps coming up before me by these special interest groups—Congressman Clarke and Senator Sanford—is one of the biggest farces that has ever been perpetrated on the American public.

The Wilderness Act is a piece of legislation that removes control from Congress, the Senate, and puts the control into two people's hands. Read it, people. Read it. Those two people are the Secretary of the Interior and the Secretary of Agriculture to change as they deem necessary.

This to me is frightening, and it's especially frightening when I sit in public meetings, when I watch TV, and I read in my local newspaper that Congressman Clarke and Senator Sanford guarantee the North Shore Historical Association rights that are not written into the Wilderness Act. This is a lie that I have seen a lot of people sit at public meetings and believe if they haven't studied the act.

Now, this is not all. We have to sit here and listen, and it has not been brought up today yet, but it's going to be. They have the nerve to tell the people of Swain County, NC, that they only do not get a road that a contract was written for in 1943, and this 44,000 acres taken from us and put into the National Park Service, which by the way is controlling this very well.

But we have heard again and again no wilderness, no money. They have been told this repeatedly. And when we raised the question why must it be wilderness, we are told to insure no road will ever be built into this area. Committee, there are lots of roads into this area. There are bridges in this area. And if wilderness designated—in fact, I would just to hold up one picture here, a picture of a bridge that is going to be left to go to nothing. The Wilderness Act says that everything pertaining to man will go back to nature.

The people of western North Carolina don't want any more wilderness. I have spoken to county commissioners, county lawyers, business people, community leaders, clubs, so forth in five counties. And not one of these people had been contacted by Congressman Clarke or Senator Sanford, although at every public meeting where they spoke and I attended, the people were told this is what the people want. Wilderness or nothing is what the Swain County Commissioners have been told. So, I'm sure they need the money and they go along.

Two sets of grandparents, aunts, uncles and cousins lost their homes and hundreds of acres of property for the following, and this is a quote from the TVA manual on the Fontana Reservoir project. "Prices to be paid for the land were fixed by the TVA appraisal staff. No price trading was permitted to enter into the negotiations and the property was either purchased at the appraised price or condemned. The overall average price per acre cost of $37.76"—I'm still quoting—"is one of the lowest for any reservoir acquired to date."

And I am one appointed member sitting here today we were talking about, and our good Senator got up and bless Pat, he has put his name on a bill that he don't even know but there's one cemetery over there. I'm sorry. I have to hang my head in shame and say I'm sorry.

But as a member of 1,311 families—not people—1,311 families that lost their heritage in this 44,000 acres, I think I have the right to demand that our human rights be given back to us. And we are asking that this 44,000 acres be given historical status instead of wilderness designation.

And if anybody wants to see—they tell us there is no history. Here is the log cabin that was built in 1782. It is still standing. It won't still stand. We have got today before us—as I say, for anyone that would like to see them, here is still a rose that my grandmother planted that is still going back last summer. My grandfather——

Senator **Bumpers**. Thank you. Ms. Breedlove, as you heard me say earlier, I am most reluctant to cut you off, but——

Ms. **Breedlove**. I'm sorry, but I——

Senator **Bumpers**. We have to adjourn before 12:30, and we still have a number of witnesses.

Ms. **Breedlove**. I'm sorry. I do get very emotional about this, but as I say——

Senator **Bumpers**. That's quite all right, and I understand that.

Ms. **Breedlove**. I saw grandfathers—I am seeing parents——

Senator **Bumpers**. Mr. Hendrie.

Ms. **Breedlove** [continuing]. Die wanting to go home, and we're asking for historical status. There is history here. We have got pictures to prove there is history.

[The prepared statement of Ms. Breedlove follows:]

TESTIMONY
OF
JOYCE POSEY BREEDLOVE

REFERING
TO

SENATE BILL NO. 695
"GREAT SMOKY MOUNTAIN NATIONAL PARK WILDERNESS ACT"

Distinguished Committee,

I stand before you today with a heavy heart. Too many of our elected officials, "unless something was pulled somewhere," seemingely forget they are put into office by the majority of the people. Thus they pass acts, for the moneyed minority, special interest groups they favor. By doing this they force us as private citizens, to use our time and own expense, traveling to our Capital, to fight against the injustices forced on us.

As a third generation, who has watched and listened to the **heartache** and **suffering**, caused by such actions as described above, then to be faced with the possibility, that unless you have the health and put on a back-pack, there is no way you can even visit the heritage that was taken away from you, in the name of "public use". The rhetoric of "**for the people**," that keeps coming up before me by these, special interest groups, Congressman Clark and Senator Sanford, is one of the biggest **FARCES**, that has ever been perpetrated on the American public. The Wilderness Act is a piece of legislation that removes control from congress, the senate and puts the contorl into two peoples power; "Secretary of the Interior" and "Secretary of Agriculture," to change as they deem necessary. This to me is frightening, especially when I sit in public meetings, watch TV and read in my newspaper, that Congressman Clark and Senator Sanford, **GUARANTEE**"The North Shore Historical Association" rights that are not written into the "Wilderness Act". This is a **Lie**, that a lot of the public are going to beleive unless they have studied the act.

Now listen to this, they also have the nerve to tell the people of Swain County, North Carolina that not only do they not get a road, that a contract was written for in 1943, to replace one partically flooded by the "Fontana Reservoir," plus 44,000 acres of land which was 80% of the tax base of Swain County, taken and put into "National Park Service," which by the way is controlling this property well enough. They must now accept wilderness designatntion of this 44,000 acres. "No Wilderness, no money," referring to the 9.5 million and cancellation of a loan, thru FmHA, that was used to build a high school, which is offered in both Clarks and Helms bill, they have been told repeatially. When asked why it must be wilderness, we are told "to ensure no road will ever be built into this area." Committee, there are many roads in this area plus bridges, if wilderness is designated, these also will disappear, as "nothing that pertains to man is maintained." To ensure whom, I ask you, not the majority of the people who will never be permitted to enter this area.

The people of Western North Carolina do not want any more wilderness. I have spoken to County Commissioners, County Lawyers, Business People, Community Leaders, Clubs, etc. in five counties and not one of these people had been contacted by Congressman Clark or Senator Sanford, although every public meeting, where they spoke and I attended, the people were told, this is what the people said they want. Wilderness or nothing is what the "Swain County Commissioners"have been told they get. I m sure they need the money so they go along.

Two sets of my **Grand-Parents, Aunts, Uncles, and Cousins** lost their homes and hundreds of acres of property for the following. Quoting from the TVA manual on the "Fontana Reservoir Project". "Prices to be paid for the land were fixed by the TVA appraisal Staff. No price trading was permitted to enter into the negotiations and the property was either purchased at the appraised price or condemned. The overall average per acre cost of $37.76 is one of the lowest for any reservoir acquired to date. As one appointed members of the 1,311 families who lost our heritage in this manner. I demand our human rights be given back to us. We ask that 44,000 acres be given "HISTORICAL STATUS", instead of Wilderness Designation.

Respectfully Submitted,

Joyce Posey Breedlove
7 Brentwood St.
Franklin, N.C. 28734

STATEMENT OF HUBERT O. HENDRIE, FRANKLIN, NC

Mr. **Hendrie**. I am going to cut some of this short. I have a prepared statement. I would like it entered into the record.

Senator **Bumpers**. It will be entered in the record, and we appreciate your summarization.

Mr. **Hendrie**. I am going to ask you a question, sir. As far as these photographs are concerned, I have spent considerable dollars in preparing these photographs. And if I entered these into the records, would they be returned?

Senator **Bumpers**. I honestly don't know the answer to that, Mr. Hendrie. I think it certainly would be possible. If you would like to leave those with the committee, the committee could use them possibly in the markup session when we consider this legislation, after which time they would be returned to you.

Mr. **Hendrie**. I would like to have them.

Senator **Bumpers**. I'll tell you what I would rather do, Mr. Hendrie. I would rather you stay in touch with perhaps Senator Helms, if you favor his bill, or if you don't favor anything, stay in touch with the committee. And at such time as this is going to be considered in markup, then send them back up to the committee for their consideration.

Mr. **Hendrie**. I would like to make one comment though as far as what I have heard testified so far. And I think definitely it boils down to the fact of do we go along with what has been promised to us, or do we just start saying that the Government doesn't mean what it says.

Now, since our forefathers have stepped foot on this great American land, many pages of history have been written and preserved. And we as a nation have taken great pride and patriotism in preserving our way of life and our history even to the point of giving up our lives. Our freedom was not given to us. We had to fight and fight again. To those that have taken it upon themselves to try to remove this freedom, we have stood toe to toe.

When our Constitution was written, its authors put all of their faith in their words. One purpose of this written document was to develop a government that the people could trust, a government that made the laws of, by and for the people, and a government to abide by. We are the people that founded this government, and it wasn't done with weak promises or lies.

In an extreme act of patriotism during World War II, these people, the North Shore Historical Association—and by the way, they are the remnants of those that settled and developed and were removed forcibly. They had to give up their land believing that the government would keep it's promise to rebuild the road that was flooded by Fontana Lake.

They were also promised that the area of their cemeteries and the access to these cemeteries would be continually maintained. They put their trust in the government of the greatest country of the world. But was this promise fulfilled? No. They have been lied to and lied about by politicians and special interest groups, environmentalist, Sierra Club, et cetera, who want to remove this land from the annals of history.

And the environmentalists say there is no history here. Well, these photographs will prove that there is history here. I have at my house at home a list of negatives, 650 photographs, available today of what was over there. Now, these photographs range from what is existing right now, what goes on as far as cemeteries, how big they are, and they go on there to what they are just now finding. Now, you think we are just—in fact, we are just finding some things. I think about two or three weeks ago they just found a steam engine up in there. They didn't know that was up in there. There is no history up in there though.

By comparison there is an area in Tennessee known as Cades Cove, and that area, Cades Cove, will be left out of the wilderness I understand. That is over on the Tennessee side. They don't want that put in the wilderness, so that's why the Tennessee politicians have been able to cosponsor this bill, take the heat off of them.

If there is an area in North Carolina's side, and if that road were put in, we could have the same Cades Cove over in the North Carolina side bringing millions of visitors and dollars. Last year alone approximately about $83 million were brought into the Cades Cove area. And we're worrying about $9.5 million or something like that. Think of the dollars that could be brought into Swain County just by putting that road in and bringing it back to the heritage that these people originally had there.

Thank you.

[The prepared statement of Mr. Hendrie follows:]

TESTIMONY
OF
HUBERT O. HENDRIE

REFERING
TO

SENATE BILL NO. 695
"GREAT SMOKY MOUNTAIN NATIONAL PARK WILDERNESS ACT"

SINCE OUR FOREFATHERS FIRST STEPPED FOOT ON THIS GREAT AMERICAN LAND, MANY PAGES OF HISTORY HAVE BEEN WRITTEN AND PRESERVED. WE AS A NATION, TAKE GREAT PRIDE AND PATRIOTISM, IN PRESERVING OUR WAY OF LIFE, EVEN TO THE EXTREME POINT OF GIVING UP OUR LIVES IN ORDER TO PRESERVE THIS WAY OF LIFE. OUR FREEDOM WAS NOT GIVEN TO US, WE HAD TO FIGHT FOR IT. TO THOSE THAT HAVE TAKEN IT UPON THEMSELVES TO TRY TO REMOVE THIS FREEDOM, WE HAVE STOOD "TOE - TO - TOE".

WHEN OUR CONSTITUTION WAS WRITTEN BY THE GREAT MINDS OF YESTERDAY, THEY PUT ALL THEIR FAITH IN THEIR WORDS. ONE MAIN PURPOSE OF THIS WRITTEN DOCUMENT WAS TO DEVELOPE A GOVERNMENT THAT THE PEOPLE COULD TRUST, A GOVERNMENT THAT MADE THE LAWS BY, OF , AND FOR THE PEOPLE TO ABIDE BY. WE ARE THE PEOPLE THAT FOUNDED THIS GOVERNMENT AND IT WASN"T DONE WITH WEAK PROMISES AND LIES.

GENTLEMEN, IN AN EXTREME ACT OF PATRIOTISM DURING WORLD WAR TWO, THESE PEOPLE GAVE UP THEIR LAND WITH A PROMISE FROM THE GOVERNMENT THAT A ROAD WOULD BE RE - BUILT, AND THE AREA OF THEIR CEMETARIES WOULD BE CONTINUALLY MAINTAINED. THEY PUT THEIR TRUST IN THE GOVERNMENT OF THE GREATEST COUNTRY IN THE WORLD. BUT WAS THIS PROMISE FULFILLED? NO. GENTLEMEN THEY HAVE BEEN LIED TO, AND LIED ABOUT BY POLITICIANS AND SPECIAL INTEREST GROUP (SIERA CLUB AND OTHER ENVIRONMENTALIST) WHO WANT TO REMOVE THIS LAND FROM THE ANNAL OF HISTORY. THEY (THE ENVIRONMENTALIST) SAY, "THERE IS NO HISTORY ON THIS LAND AND THERE ISN"T ANY HERITAGE WORTH PRESERVING". WRONG, THE TRUST THESE PEOPLE PUT IN THEIR GOVERNMENT IS WORTH PRESERVING. AS FOR THE HISTORY AND HERITAGE, MY PHOTOGRAPHS WILL PROVE THEM WRONG.

THE 44,000 ACRES, JUST A SMALL PART (10%) OF THE 467,000 ACRES THEY WISH TO TURN INTO A WILDERNESS AREA, MUST BE PRESERVED, BUT NOT BY PUTTING IT AS PART OF THE WILDERNESS. IT MUST BE PRESERVED AS A HISTORICAL SITE. IF IT WERE PUT IN THE WILDERNESS AREA AS DEFINED BY THE WILDERNESS ACT, ALL EVIDENCE OF MAN AND HIS EVER HAVING BEEN THERE, WILL BE DESTORYED OR LEFT TO ROT INTO OBLIVION. CONGRESSMAN CLARK IS IGNORANTLY UNDER THE IMPRESSION THAT THE ORIGINAL WILDERNESS ACT WAS WRITTEN FOR THE WESTERN STATES, AND THAT THERE EXIST AN "EASTERN WILDERNESS ACT". HE HAS MADE THIS STATEMENT PUBLICALLY. HE ALSO PUBLICALLY STATED THAT SWAIN COUNTY (THE 44,000 ACRE PORTION OF THE SMOKY MOUNTAIN NATIONAL PARK) WOULD RECEIVE 9.5 MILLION DOLLARS AS A RESULT OF LOSING TAXED BASED LAND WHEN THIS PORTION WAS PUT INTO THE PARK. AGAIN WRONG. THAT MONEY IS DUE SWAIN COUNTY FOR BUILDING A 5.5 MILE STRETCH OF THAT PROMISED ROAD.

SENATOR HELMS BILL (SENATE BILL 695) ALSO CALLS FOR 9.5 MILLION DOLLARS TO BE REPAID TO SWAIN COUNTY, BUT WITH THE EXCEPTION OF KEEPING THE 44,000 ACRES OUT OF THE WILDERNESS, AND FULFILLING THE PROMISE MADE TO THE PEOPLE OF THE NORTH SHORE HISTORICAL ASSOC. TO HAVE THE ROAD BUILT AS PROMISED. I THEREFORE URGE YOU TO VOTE YES ON SENATOR HELMS BILL AND NO ON CONGRESSMAN CLARK"S BILL, IN ORDER TO SHOW TO THE PEOPLE THAT WE ARE A COUNTRY THAT KEEPS IT'S WORD.

I HAVE BROUGHT WITH ME MANY PHOTOGRAPHS OF THIS AREA, AND OF IT'S PEOPLE, IT'S BUILDINGS AND OTHER RELICS OF THE PAST. THEY SHOW WHAT WAS THERE IN THE PAST. THESE ARE JUST A FEW OF THE AVAILABLE PHOTO'S SHOWING WHAT WAS THERE. THE ATTACHED LIST GIVES OVER 650 NEGATIVES AVAILABLE THAT THE T.V.A. PHOTOGRAPHED IN THE EARLY 40'S AND LATE

30'S. THESE PHOTO'S SHOW WHY WE ARE STANDING "TOE - TO - TOE" WITH POLITICIANS AND ENVIRONMENTALISTS. WE DON'T WANT TO SEE THIS LAND DESTROYED, WE WANT TO PRESERVE IT INTO A HISTORICAL AREA. IN THE PAST 44 YEARS, NATURE HAS TAKEN OVER, AND ONLY BY OUR ATTEMPTS TO MAKE THE GOVERNMENT LIVE UP TO IT'S PROMISE IS THERE ANYTHING LEFT TO PRESERVE. IF THE WILDERNESS ACT, INTRODUCED BY CONGRESSMAN CLARK IS PASSED, ALL OF THIS HERITAGE WOULD BE DESTROYED, NEVER TO BE SEEN BY MAN AGAIN.

IN COMPARISON THERE IS AN AREA IN TENN. KNOWN AS CADES COVE, WHERE IT'S HISTORY, IT'S BUILDINGS AND IT'S WAY OF LIFE HAVE BEEN PRESERVED. MILLIONS OF VISITORS BRINGING MILLIONS OF DOLLARS CAN DRIVE THROUGH THIS HISTORICAL AREA. WHY HAS TENN. FOUGHT SO HARD TO PRESERVE THEIR HISTORY AND WHY ARE THEIR POLITICIANS SO WILLING TO GIVE AWAY THIS SAME WAY OF LIFE IN NORTH CAROLINA? AT THAT TIME THE NORTH CAROLINA SIDE OF THE SMOKIES WAS THE PREDOMINATE AND MORE POPULATED AREA. THE NORTH CAROLINA SIDE OF THE SMOKIES CONTAINS ALSO SOME OF THE RICHEST COPPER ORE IN THE UNITED STATES. IT WAS NOT MINED OUT, IT JUST STOPPED BECAUSE THE ROAD WAS FLOODED AND BECAUSE IT WAS PUT IN THE SMOKEY MOUNTAIN NATIONAL PARK. AT THAT TIME, LARGE LUMBER COMPANIES LOGGED, SAWED AND KILN DRIED MILLIONS OF BOARD FEET OF TIMBER. THIS WAS AN AREA OF INDUSTRIAL VALUE TO THE UNITED STATES. THE REMNANTS OF THIS KILN ARE STILL THERE TODAY.

EIGHTY-FIVE PERCENT OF SWAIN COUNTY IS OWNED BY THE UNITED STATES GOVERNMENT. THERE IS ALSO, A TWENTY-EIGHT PERCENT UNEMPLOYMENT RATE IN SWAIN COUNTY. IF THIS AREA (44,000 ACRES) WERE PUT IN AND MAINTAINED AS A HISTORICAL SITE AND THE ROAD PUT INTO IT, IT WOULD BRING MILLIONS OF VISITORS TO SWAIN COUNTY SO DEEPLY DEPRESSED ALREADY AS A RESULT OF THE UNITED STATES GOVERNMENT. THE MILLIONS OF DOLLARS OF REVENUE FROM THIS AREA WOULD FURNISH JOBS TO THE RESIDENTS OF SWAIN COUNTY, BECAUSE MORE BUSINESSES WOULD COME IN, HOTELS FOR VISITORS. THE HISTORICAL AREA ITSELF WOULD HAVE TO BE MAINTAINED (AS IS CADES COVE) AND AGAIN HELP THE PEOPLE OF SWAIN COUNTY OUT OF THEIR ECONOMICAL PLIGHT THAT HAS NO REMEDY. I'M ALL FOR SAVING THE ENVIRONMENT FOR OUR FUTURE GENERATIONS FOR THEIR PLEASURE AND ENJOYMENT, BUT I'M MORE FOR PRESERVING THE HISTORICAL HERITAGE OF IT'S PEOPLE.

THIS 44,000 ACRE AREA WAS DESTROYED BY THE GOVERNMENT WHEN THEY TOOK IT AWAY FROM THE PEOPLE AND LET TO GROW WILD. LETS NOT MAKE THE SAME MISTAKE AGAIN. FOR, GENTLEMEN, IF YOU VOTE FOR THE CLARK BILL THIS WILL HAPPEN, AND THE GOVERNMENT WILL SHOW TO THE PEOPLE THAT EVEN WHEN THERE IS A WRITTEN CONTRACT, WHICH EXISTS BETWEEN THE PEOPLE AND IT'S GOVERNMENT, THE GOVERNMENT DOES NOT HAVE TO FULFILL IT'S PROMISE.

Senator BUMPERS. Thank you very much, Mr. Hendrie.
Ms. Woods.

STATEMENT OF LEEUNAH VANCE WOODS, FONTANA-NORTH SHORE CEMETERY HISTORICAL ASSOCIATION, WAYNESVILLE, NC

Ms. WOODS. The Fontana-Hazel Creek area means a great deal to many of us. I along with many others have five generations of great-grandparents and other family members buried in the 26 cemeteries on the north side of Fontana Lake which does contain in total over 1,000 graves. Incidentally, two more cemeteries the other day were just located now making the total of 28. My fourth great-grandfather——

Senator BUMPERS. Making a total of what, Ms. Woods?

Ms. WOODS. Twenty-eight.

Senator BUMPERS. Twenty-eight?

Ms. WOODS. My fourth great-grandfather fought with Gen. George Washington at the Battle of Trenton, and word was passed down through generations that he was given a land grant as a result of his service to his country during the American revolution. It was his children who settled in the Cades Cove, TN area and also in the Proctor-Hazel Creek area of North Carolina.

Tennessee sees that the Cades Cove area has been preserved. But some politicians and special interest groups would like the North Carolina side and the Hazel Creek history destroyed so that no one can ever tell that anyone has lived there or they can make you believe that no one has ever lived there.

I believe in conservation and preservation of the area, but I also believe in conservation and preservation of our heritage, and the two can be compatible. You do not hear Senator Sasser willing to include the Cades Cove area in the wilderness. This area is well-thought of by Tennessee and the people who settled it. They are the same family that settled Hazel Creek and the Fontana side, but they are wanting it to go into wilderness so that eventually it will have to go back to nature. This is very unfair. What a price we pay.

I am here representing the members of the Fontana-North Shore Cemetery Historical Association, and we support Senator Helms' bill, S. 695, but we firmly believe that the 44,000 acres should be kept out of wilderness and the cemeteries bridges and remaining homes listed on the national historical register as other areas of the park.

We would like to ask a favor please. Would someone check and see where the money came from and how it was appropriated to acquire the mining property a few years ago on Eagle Creek and who the land was bought from? There are two mines that were in operation and still remain in this area.

Environmentalists try to give the impression they are trying to save the last few remaining patches of wilderness before it disappears under a covering of asphalt and concrete. In reality the Park Service owns land that is larger than Great Britain; the Forest Service, larger than France; the Fish and Wildlife own lands larger than Holland, Israel, Belgium, and Switzerland combined. Moreover the Federal Government in recent years has been buying up still more and more land despite budget deficits and other needs.

Many people are not aware of how relentless the wilderness recreation lobby has used its political clout to make it more and more difficult for millions of ordinary citizens to have access to this enormous expanse of land that is supposedly being preserved for the people.

In a wilderness area the point is to give preferential access to those with a lifestyle of an environmentalist and keep out ordinary city people with limited vacation time and kids who can't be turned loose in the wild. If you don't have the leisure, the money, the physique or the commitment of a special lifestyle, then the wilderness recreation lobby doesn't want you to be allowed in anymore. All their talk about the people is nothing but political garbage. If you can't afford to have your family learn backpacking, horseback riding, skiing, camping, or the mysteries of the white water canoeing, you are going to have less and less access to more and more public land.

The price society pays for the recreational privileges that a small and affluent group of Sierra Clubers and other environmental extremists want limited to themselves isn't just simply the money, but also the use of the land. The issue is whether there should be some sense of balance between the wilderness recreation lobby and the majority of Americans. Like the special interests groups, the wilderness recreationists try to represent their own particular benefits as national benefits and ignore the cost to others. Their point of view is preached as the only truth not only to the tourists but in a constant clamor in the media.

This area should be open to all people, young, old, handicapped, former residents, as well as the wilderness society and special groups. We are not asking to exclude anyone, but to include everyone. But environmentalists are trying to exclude the ordinary American from the beauty of this section.

The adequate access you hear so much about is usually a jeep pulling a utility trailer or horse trailer. Sometimes two trailers behind one jeep. On a trip to the cemeteries in October, one of the jeeps pulling a utility trailer with 11 or 12 people, some of which were 60 to 70 years old, turned over. Everyone was spilled out. Fortunately there were only a few scratches and bruises. The four-wheel vans are mostly used on Hazel Creek and will only hold 8 to 10 people. Others ride in jeeps pulling a utility trailer or horse trailer.

To give you an example, to get 150 people to a cemetery, it takes from 9:30 in the morning to 12:30 or 1 in the afternoon. That is to get them to a cemetery that is only 6 miles away. On a Forest Service type road we can get there from Bryson City in half the time even going 10 to 15 miles an hour.

We are in favor of Swain County receiving their settlement, but we also think our access should be approved.

One thing that really bothers me that every time we meet with political representatives, they stress and stress that unless all lands, including the 44,000 acres, are included in wilderness, that there will not be a cash settlement to Swain County. This is nothing but blackmail and it's not fair to have a county put in this type of a situation. In other words, you go along with me, or forget the settlement.

[The prepared statement of Ms. Woods follows:]

TESTIMONY OF
MRS. LEEUNAH VANCE WOODS
BEFORE THE
SENATE SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS
AND FORESTS

JUNE 23, 1987

June 15, 1987

Mr. Chairman and distinguished members of the sub-committee:

The Fontana-Hazel Creek area means a great deal to me and my family. I have 5 generations of great-grandparents and other family members buried in the 26 cemeteries on the north side of Fontana Lake. Incidentially, we recently found the location of two more cemeteries in that section now making the total of 28 cemeteries on the north side of Fontana Lake. These cemeteries contain over 1,000 graves. My 4th great-grandfather fought with General George Washington at the Battle of Trenton and word has been passed down through generations that he was given a land grant from the government for his services during the American Revolution. It was his children who settled in Cades Cove, Tennesee and the Hazel Creek section in the early 1800's. The heritage of the Cades Cove section has been preserved but some politicians and special interest groups would like the North Carolina Hazel Creek history completely destroyed so that they can tell people that no one has ever lived in that area, or make it look as if no one has ever lived in the area. I believe in the preservation and conservation of this area but I also believe in the preservation and conservation of our heritage and the two can be compatible.

I am representing members of the Fontana-North Shore Cemetery Historical Assoc. We support Senator Helms bill, S-695, and we firmly believe the 44,000 acres should be kept out of wilderness. This area consist of lands in North Carolina that were acquired by the Tennessee Valley Authority and transferred to the National Park Service in the 1940's. Much of this land was acquired subject to outstanding rights that include mineral rights, there are two copper mines on the property, timber rights, cemeteries, road access, and others that are inconsistent with wilderness. The possibility remains that other rights will be exercised, therefore we feel that these lands are not suitable for wilderness designation. We would like for you to check and see where the money came from and how it was approiated to acquire the mining property a couple of years ago on Eagle Creek and who was the land bought from.

The environmentalist try to give the impression that they are trying to save the last few remaining patches of wilderness before it disappears under a covering of asphalt and concrete. In reality, the land owned by the National Park Service is larger than Great Britain. The land owned by the

United States Forest Service is larger than France. Futh-rmore, the Fish and Wildlife Service owns land that is larger than Holland, Isreal, Belgium and Switzerland-combined. Moreover, the federal government, in recent years, has been buying up still more land despite budget deficits and other crying needs. Many people are not aware of how relentlessly the wilderness recreation lobby has used its political clout to make it more difficult for millions of ordinary citizens to have access to this enormous expanse of land that is supposedly being "preserved" for the "people."

In a wilderness area, the point is to give preferential access to those with the lifestyle of the environmentalist and keep out ordinary city people with limited vacation time and kids who cannot be turned loose in the wild. If you don't have the leisure, the money, the physique or the committment to a special lifestyle, then the wilderness recreation lobby doesn't want you allowed in anymore. All their talk about the "people" is just political garbage! If you can't afford to have your family learn backpacking, horseback riding, skiing, camping, or the mysteries of white water canoeing, you are going to have less and less access to more and more public land.

The price society pays for the recreational privileges that a small and affluent group of Sierra Clubbers and other environmental extremist want limited to themselves is not simply the money to maintain and acquire public land! The issue is whether there should be some sense of balance between the wilderness recreation lobby and the large majority of Americans. Like the special interest groups, the wilderness recreationists try to represent their own particular benefits as national benefits-and to ignore the cost to others. their point of view is preached as the only truth, not only to tourist but in a constant clamor in the media. This area should be opened to all people, elderly, young, handicapped, former residents as well as the wilderness society and special interest groups. We are not asking to exclude anyone but to include everyone but environmentalist are trying to exclude the ordinary Americans from the unique beauty of this section of the Smokies.

Other areas of the Great Smokies National Park have historical value and are on the National Historical Registery and we would like to see our cemeteries and the remaining homes on the north shore put in the National Historical Registery also.

The adequate access that you hear so much about is usually a jeep pulling a utility trailer or horse trailer, sometimes two behind one jeep. On a trip to the cemeteries October, 1986, one of the jeeps, pulling a utility trailer with 11 or 12 people sone of which were 60 or 70 years of age, flipped over spilling all occupants. Fortunately, there were only a few cratches and bruises. The four wheel vans are mostly used on Hazel Creek and will only hold 8 to 10 people, others ride in jeeps pulling utility trailers or horse trailers. With around one hundred fifty people on these trips, if you are not one of the first in a vechicle, you must wait until they go to the cemetery and unload and then return for you. To give you an example, to get 150 people to a cemetery only six miles away, it takes from 9:30AM until 12:30pm or 1:00pm to get them from the lakes edge to the cemetery being visited. On a forest service type road, we could get there from Bryson City in half the time even traveling 10 to 15 miles per hour.

We are in favor of Swain County receiving an equitable settlement plus our access to cemeteries improved. For some politicians to tell us and Swain County residents that unless all lands, including the 44,000 acres, be included in wilderness, there will be NO settlement of this controversy is sheer BLACKMAIL! Swain County and former families have given so much and the environmentalist are demanding more and more. We have been taught, for a government to renig on a contractorial agreement is illegal and to us very Un-American!

Mr. Chairman, for the reason stated above, we recommend that the 44,000 acres remain out of wilderness and improvement of access to our cemeteries be included in tie passing of this bill.

Thank you,
Woods
Lerunah Vance Woods (Lee)
200 Broad Street
Waynesville, N. C. 28786

Senator **Bumpers**. Ms. Woods, thank you very much for your testimony.

Ms. Kirkland.

STATEMENT OF VERNA KIRKLAND, BRYSON CITY, NC

Ms. **Kirkland**. Yes, sir. Thank you for letting me be here today. I want my written testimony entered. I am not going to use it to read from.

Senator **Bumpers**. Ms. Kirkland, if you will, pull the microphone a little closer please. Thank you.

Ms. **Kirkland**. I wanted to say that I am one of those endangered species that you were talking about. My family was in Swain County before Swain County was a county. We have been there since 1861 when it was a county.

A typical day—and you look sort of surprised when our Senator couldn't tell you how many cemeteries. Don't feel too bad. Our county commissioner couldn't either. When we got the first bill, Mr. Clarke's bill, and it said we will guarantee you access to Hazel Creek, I called our chairman of the county commissioners, and I said what about our other cemeteries. And he said what other cemeteries. Now, we are just a small little county, and he should have known. But that is beside the point.

But a typical day to reach one of these cemeteries is from about 7 o'clock in the morning to about 8 or 9 at night. It takes about that long. Some of them are a little bit shorter trips. But we get to the boat dock and we wait for a barge. And by the way, it is not park barges. The Park Service has a contract with the Fontana boat dock to haul us across.

We get to the other side, and you have to wait again to catch a ride. The ones that are able start walking. Some of the cemeteries are 14 miles from the water's edge. If you start walking, you are the last one picked up. So, if you think you are getting ahead, you are not. You are better off to wait. After a 12 to 14 mile ride, then you got to come back down, and it's the same process to get back. Some wait.

But those cemeteries are scattered from the head of Noland Creek to Fontana Dam, and that's a distance of about 30 miles along that lake shore. And there is not roads to all of them. I don't care what anybody tells you. Some of them you've got to walk to, and there is no Park Service people over there. We get across the lake, and we walk.

And we have asked lots of people to come and go with us, and they will say, oh, I've been. And they sure have because when they want to go, they call the Park Service headquarters, and there is somebody there to meet them on the other side of the lake. And they haul them up Hazel Creek which is pretty accessible.

But my family—my husband's family came from Chambers Creek, and it is not quite as accessible. And to get to the Mitchell cemetery, there is no road at all. There is barely a trail. It takes about an hour and a half, and it is straight up.

Last year, we had some military markers to go to some veterans graves. And the Park Service was working over there the day they were to be taken. And they had been notified that Mrs. Vance was coming with the markers. When they got there, the Park Service was nowhere to be found because they had been instructed not to take her that day.

Joyce's daddy carried one of those markers 6 miles to Bonn Valley. They put them down. He had to walk 6 miles back out too, by the way. Now, that is what we're talking about.

But the Park Service does the best they can when they have the authority to do it. And I understand that the superintendent has been changed in Gatlinburg, and we're grateful for that.

If there is anything I could—oh, yes, about the number, the fluctuation in the number. Some of the cemeteries are just one or two graves. Some of them has up to 200 graves. The big crowds come on the Sundays. Naturally where there's 200 graves, there's going to be more people. People come from Washington, Oregon, California. And last year, if you will read the records—and we are required to sign when we go over on the boat. We got to put our name and where we are from, where we're going to, which graves we intend to visit—you will find names from as far away as Indonesia because that was my family that came last year.

[The prepared statement of Ms. Kirkland follows:]

TESTIMONY OF
VERNA KIRKLAND
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

JUNE 23, 1987

On March 27, 1984, a hearing was conducted here in Washington, D.C. before the subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources. At that hearing there were questions raised in the statement of Russell E. Dickenson who at that time was the Director of the National Park Service, the Department of Interior and I quote "Turning now briefly, Mr. Chairman to the bills before you S.1947 which is the Baker-Sasser bill, would designate 467,000 acres as wilderness. S.2183 the Helms-East bill is 400,000 acres of wilderness. And as I mentioned, we recommend 390,500 acres of wilderness.

Now the major difference is approximately 44,000 acres which is on the north shore of the Fontana Lake.

That was acquired by the Tennessee Valley Authority and transferred to the National Park Service in the 1940's. Much of that land was acquired subject to outstanding rights that includes mineral rights, timber rights, cemetery road access, and others that are basically inconsistent with wilderness."

I ask each of you now, since March 27, 1984 has anything transpired that has changed these rights?

Who would be more qualified than the Director of the Park Service to recommend that the 44,000 acres on the north shore of Lake Fontana be excluded from wildnerness?

We are here today to support Senator Helms's bill, S. 695. This bill would pay Swain County the 9.5 million dollars, build a primitive road along the north shore of Fontana Lake and exclude the 44,000 acres from wilderness.

The people who were forced to sell their land and relocate did so reluctantly but with the faith in their government that they were being told the truth. Now 44 years later many of those trusting souls went to their graves disillusioned. The 1943 agreement does not mention wilderness and we do believe wilderness should not be tied to any settlement. We believe that Swain County is being blackmailed into accepting wilderness in return for a monetary settlement.

For the past several years the Great Smoky Mountain National Park has been managed as wilderness and everyone knows that it is considered the crown jewel of the park system but I do not believe it will self destruct if wilderness designation is not granted. This beautiful park has the potential of being the playground of the east if it is developed on the North Carolina side of the mountain. With a road from Bryson City to Fontana Dam it would open up western North Carolina and eastern Tennessee. Both states would benefit greatly from the tourist trade. With the visitors center, which is already in the Park management plan, to be built at the end of the tunnel on the Road to Nowhere and some in boat campgrounds along the lake shore millions of dollars could be brought into Swain County. The Hazel Creek area has the potential of a Cades Cove if it were properly developed and managed. I have been aware of this controversy since I was old enough to remember. I was born, raised, and still live in Swain County. My children are campers and fishermen and are solidly against wilderness designation for the park. We have hiked, camped, and backpacked together there for many years and we have yet to see a wheel chair track on the north shore. We say open this park up for the enjoyment of all not just the able bodied few.

Senator BUMPERS. Ms. Kirkland, what cemetery is your family buried in?

Ms. KIRKLAND. They were buried in two cemeteries: the Monteith cemetery——

Senator BUMPERS. The what?

Ms. KIRKLAND. Monteith and the McClure. Well, the Monteith cemetery is under water now, so those graves were all moved. But they had a choice of leaving the ones at McClure, so they left them. And these people will tell you that they wanted to move them off. They wanted to move the ones that was beneath the water. The others are there. And like I said, some of them is 14 miles from the lake itself.

Senator BUMPERS. Have you been there in the last few years?

Ms. KIRKLAND. Yes, sir. I missed one time in three years. I try to visit them all because there is so many——

Senator BUMPERS. Did you go on your own or did you take a Park Service——

Ms. KIRKLAND. Sometimes I go with the Park Service; sometimes I go on my own. And we don't——

Senator BUMPERS. Wouldn't these—excuse me.

Ms. KIRKLAND. Excuse me.

On the decoration Sundays itself there is usually one to three cemeteries per Sunday. You don't have an opportunity to visit any one anytime you want to. If you miss the allocated Sunday, then you don't go till next year.

Senator BUMPERS. OK.

Ms. KIRKLAND. Mr. Chairman, we would like you to know one thing. I know time is short. But the TVA did come to all the homes of the people who had ancestors buried in the cemeteries above the high watermark, and they told them there would be a road built. They also came back—that not to worry, that if they didn't want to have the graves moved, fine. The ones they were worried about were below the high watermark. But if they wanted to leave them there, there would be a road built back.

They also came back later with a letter that said: "Dear Mr. Cooke: The construction of Fontana Dam necessitates putting a road in the Proctor cemetery located in Swain County. To reach this cemetery in the future it will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery which is promised to be completed after the war has ended." Every family was shown this letter and given one.

And also, another thing. What we're talking about in there, there are old roadbeds galore—very many of them. What we would like to see now done is at the end of the two-lane construction at—the road to nowhere—go through the tunnel and take up the lake shore trail and widen it. It is already a four foot path. All the excavation is done. All the proper elevation. To get into the area, all you would have to do is widen that lake shore trail, and it would connect up with all but about 6 miles of old roadbeds that would lead to most all 28 cemeteries. That is not asking too much.

Senator BUMPERS. When was Commissioner Bacon reelected?

Ms. KIRKLAND. This past year.

Senator BUMPERS. That is an elective office, isn't it, she holds?

Ms. KIRKLAND. Yes.

Senator **Bumpers**. When was she reelected?

Ms. **Kirkland**. November of last year.

Senator **Bumpers**. Last year?

Was any of this an issue in her campaign?

Ms. **Kirkland**. Not that I know of.

Senator **Bumpers**. It was not?

Did you hear her testimony this morning that the Board of Commissioners there had endorsed S. 693?

Ms. **Kirkland**. Yes, sir. I'm very aware of that. I also heard testimony that the Board of Aldermen had——

Senator **Bumpers**. I'm sorry.

Ms. **Kirkland**. I have also heard testimony that the town Board of Aldermen endorsed this bill. And I was personally told by one of the aldermen that two of the aldermen voted for it and two of them voted against it.

Senator **Bumpers**. That doesn't sound like a landslide, does it?

Ms. **Kirkland**. No, it doesn't. But there's only four aldermen.

Senator **Bumpers**. Well, I thank you all very much for the time and effort. I know you have gone to a lot of trouble to prepare your testimony and even more trouble to be here with us. But we appreciate it very much.

Our next panel consists of Shirley Crisp of Robinsville, NC; Chester Crisp, Chairman of the Graham County Board of Commissioners; Tommy Rhodes, Natural Resource and Community Development of NC; and Charlene Hogue of Robinsville, NC. That's a lot of witnesses from Robinsville, isn't it?

Where is Robinsville?

Mr. **Crisp**. Graham County close to Fontana Lake.

Senator **Bumpers**. What county?

Ms. **Crisp**. Graham. Half of Fontana Lake is in Graham County.

Senator **Bumpers**. Ms. Crisp, please proceed.

STATEMENT OF SHIRLEY C. CRISP, ROBINSVILLE, NC

Ms. **Crisp**. Mr. Chairman, thank you for giving me a few minutes of your very valuable time.

My name is Shirley Crisp. I was born and raised in the mountains of western North Carolina. My concern is for my mountains and my people. Our future hangs in the balance of your decision.

I would like to give you just a few of the reasons I have for supporting Senator Jesse Helm's bill which would exclude 44,000 acres of land in the Smoky Mountain National Park, Swain County, NC, from the Wilderness Act.

Our Great Smoky Mountains National Park is the most visited park in the United States. But no provisions are being made for the ever-increasing number of visitors. The one and only road through the park will not carry the traffic during peak seasons even now.

The beauty of our mountains in western North Carolina is unsurpassed anywhere in the world. They could easily compare with the Alps in Switzerland. Yet the Smoky Mountains are an economically depressed area. It seems so useless to lock up thousands and thousands of acres of beautiful mountain land when three-fourths of it will never been seen by man.

Most of this land was paid for by the taxpayers, and the taxpayers will continue to pay for the upkeep. The Great Smoky Mountains National Park should be planned and managed for all the people not just the most hardy. Are we being like the Lord's servant that tried to save it all?

The Great Smoky Mountains wilderness issue should not be linked to the obligation which the U.S. Government has to Swain County, NC. The U.S. Government made a commitment to the people of Swain County. Over 40 years have passed without this commitment being honored.

The people in this 44,000 acre area gave up their homes. The Tennessee Valley Authority bought this land. Check the records. The TVA paid these people less than they had paid for any other land acquisitions. The land brought an average of $37 an acre. This average was high because some of the land had copper ore on it, and some was developed land in the Bryson City area. Most of the people received around $10 an acre for their land. If the people refused to accept this, their deeds were signed for them and their money placed in the Bryson City bank.

Lots of them refused to move the graves of their loved ones because they had assurance from the United States Government that a road would be built. Many have passed from this life during the past 43 years never having been back, afraid of the water of Fontana Lake. Many that would have liked to have been buried beside husbands, wives, fathers, mothers, and children have not been because of trouble and expense to the families.

The National Park Service desperately needs a controlled Forest Service type road into this 44,000 acre area. The very best Forest Service type roads are being built in the mountains at this time for around $50,000 per mile. Already the park has lots of old roads that could be followed with very little disturbance to the environment. This road could be used for park maintenance, control of poaching, fire protection, cemetery access, horseback riding, and hiking. This would also relieve overuse of the Appalachian Trail. In 1986 the Park Service spent $58,584 for access into this area. This expense has been constant for the past 43 years and will continue if we don't plan wisely.

During this time one life has been lost when a Park Service barge overturned. A new barge was purchased at a cost of $70,000. The engine has had to be replaced twice at a cost of around $30,000. One lawsuit has had to be settled because the weight from the barge almost overturned a boat causing personal injury.

Mrs. Wood told you about the jeep that overturned last year spilling the 12 people down the lake bank. Luckily there were no serious injuries. Park Service personnel are not allowed to ride in these trailers.

We have problems in the Smoky Mountains. Locking the door will not make them go away. Thank you.

[The prepared statement of Ms. Crisp follows:]

TESTIMONY OF
SHIRLEY C. CRISP
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

JUNE 23, 1987

Thank you for giving me a few minutes of your very valuable time. My name is Shirley Crisp. I was born and raised in the mountains of Western North Carolina. My concern is for my mountains and my people. Our future hangs in the balance of your decision.

I would like to give you just a few of the reasons I have for supporting Senator Jesse Helms's bill which would exclude 44,000 acres of land in the Smoky Mountain National Park, Swain County, North Carolina from the Wilderness Act.

Our Great Smoky Mountain National Park is the most visited park in the United States, but no provisions are being made for the ever increasing number of visitors. The one and only road thru the park will not carry the traffic during peak seasons even now. The beauty of our mountains in Western North Carolina is unsurpassed anywhere in the world. They could easily compare with the Alps in Switzerland. Yet, the Smoky Mountains are an economically depressed area. It seems so useless to lock up thousands and thousands of acres of beautiful mountain land when three-fourths of it will never be seen by man.

Most of this land was paid for by the taxpayers, and the taxpayers will continue to pay for the upkeep. The Great Smoky Mountain National Park should be planned and managed for all the people not just the most hardy. Are we being like the Lord's servant that tried to save it all?

The Great Smoky Mountain National Park wilderness issue should not be linked to the obligation which the United

States Government has to Swain County, North Carolina. The United States Government made a commitment to the people of Swain County. Over forty years have passed without this commitment being honored.

The people in this 44,000 acre area gave up their homes. The Tennessee Valley Authority bought this land. Check the records. The TVA paid these people less than they had paid for any other land acquisitions. The land brought an average of thirty-seven dollars an acre. This average was high because some of the land had copper ore on it and some was developed land in the Bryson City area. Most of the people received around ten dollars an acre for their land. If the people refused to accept this, their deeds were signed for them and their money placed in the Bryson City Bank.

Lots of them refused to move the graves of their loved ones because they had assurance from the United States Government that a road would be built. Many have passed from this life during the past forty-three years never having been back, afraid of the water of Fontana Lake. Many that would have liked to have been buried beside husbands, wives, fathers, mothers, and children have not been because of trouble and expense to families.

The National Park Service desperately needs a controlled Forest Service type road into this 44,000 acre area. The very best Forest Service type roads are being built at this time for around fifty thousand dollars per mile. Already the park has lots of old roads that could be followed with very little disturbance to the environment. This road could be used for park maintenance, control of poaching, fire protection, cemetary access, horseback riding, and hiking. This might also relieve overuse of the Appalachian Trail. In 1986 the Park Service spent $58,584.00 for access into this area. This expense has been constant for the last forty-three years and will continue if we don't plan wisely.

During this time one life has been lost when a Park System Barge overturned. A new barge was purchased at a cost of seventy thousand dollars, the engine has had to be replaced twice in the barge at a cost of around thirty thousand. One law suit has had to be settled because the wake from the barge almost overturned a boat causing personal injury. Last year a trailer being pulled behind a jeep overturned spilling twelve people down the lake bank. Luckily there were no serious injuries. Park Service personnel are not allowed to ride in these trailers.

We have problems in the Smoky Mountains. Locking the door will not make them go away.

Senator **Bumpers**. Thank you very much.

Mr. Crisp, is this husband and wife by any chance?

Ms. **Crisp**. We're not relatives.

Senator **Bumpers**. Pardon?

Ms. **Crisp**. Relatives.

Mr. **Crisp**. We are not relatives.

STATEMENT OF CHESTER CRISP, CHAIRMAN, GRAHAM COUNTY BOARD OF COMMISSIONERS, ROBINSVILLE, NC

Mr. **Crisp**. I am Chester Crisp, Chairman of the Graham County Board of Commissioners, and I am speaking on behalf of the citizens of Graham County, NC.

We in Graham County are in support of the bill introduced by Senator Jesse Helms concerning a north shore road in Swain County. Graham County and Swain County border each other in the middle of the Tennessee River.

We in Graham County do not want any more land in or any land adjoining Graham County placed in wilderness. The U.S. Government, the State of North Carolina, the Aluminum Company of America already own about 75 percent of our county. And a large area of this county is already in wilderness. And we in Graham County feel there is too much wilderness as is. We feel that we are slowly being choked to death by the wilderness.

We also feel that if the part of the Smoky Mountains National Park covered by the law is placed in wilderness, that a buffer zone which may come in the future will greatly affect Graham County as our use of Fontana Lake could be limited.

So, Mr. Senators, we in Graham County are asking you to pass the bill introduced by Senator Helms. We need roads and progress and not wilderness. We have the highest rate of unemployment in North Carolina.

We in Graham County were not approached by Congressman Clarke or Senator Sanford concerning the bill until we opposed it.

So, in closing remember what our great statesman Thomas Jefferson told us. More government makes a weak nation, and less government makes a stronger people.

Thank you.

[The prepared statement of Mr. Crisp follows:]

TESTIMONY OF
CHESTER CRISP
CHAIRMAN, GRAHAM COUNTY BOARD OF COMMISSIONERS
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

JUNE 23, 1987

I am Chester Crisp, Chairman of the Graham Board of Commissioners and I am speaking on behalf of the citizens of Graham County, North Carolina. We in Graham County are in support of the bill introduced by our Senator Jesse Helms concerning the North Shore Road in Swain County. Graham and Swain Counties border each other in the middle of the Tennessee River, and we in Graham County do not want any more land in or any land adjoining Graham County placed in wilderness. The United States government, the State of North Carolina, and Alcoa already own about 75% of Graham County and a large area of the county is already in wilderness and we in Graham County feel there is too much wilderness as is. We feel that we are slowly being choked to death by wilderness and we also feel that if the part of the Smoky Mountain National Park covered by the law is placed in wilderness that the buffer zone which may come in the future will greatly affect Graham County as our use of Fontana Lake could be limited. So Mr. Senators we in Graham County are asking you to pass the bill introduced by Senator Helms. We need roads and progress and not wilderness.

Senator **Bumpers**. Thank you very much, Mr. Crisp.

Mr. Rhodes.

Mr. **Rhodes**. Thank you, Chairman Bumpers.

Senator **Bumpers**. Mr. Rhodes, I'm sorry. Are you the gentleman Senator Helms referred to earlier? You're speaking on behalf of the Governor?

Mr. **Rhodes**. Yes, sir.

Senator **Bumpers**. Fine. Please proceed.

STATEMENT OF S. THOMAS RHODES, SECRETARY, DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, STATE OF NORTH CAROLINA, ON BEHALF OF HON. JIM MARTIN, GOVERNOR, NC

Mr. **Rhodes**. Thank you, Mr. Chairman. I appreciate this opportunity to be here today and testify on the Great Smoky Mountains wilderness legislation that you have before you.

For the record, my name is Tommy Rhodes. I am Secretary of the North Carolina Department of Natural Resources and Community Development. I am located in Raleigh, NC.

I am here today testifying on behalf of Gov. Jim Martin and in support of Senate bill 695 introduced by Senator Jesse Helms. This legislation, as you know, would establish the Great Smoky Mountains Wilderness Area and preserve 407,171 acres of forest in North Carolina and Tennessee. It would also honor, as you have heard, a 44 year old promise to the citizens of Swain County, NC.

We are extremely proud to have a major portion of the Great Smoky Mountains National Park in our great State of North Carolina. Its unique natural features truly make it a national treasure. It is also the most visited park in the outstanding national park system that the Congress has created.

Senate bill 695 would designate the majority of the lands in the park as wilderness areas. This will affirm the present management policies of the National Park Service and it would insure these primitive natural areas are available for future generations to enjoy.

The Martin administration has supported expanded wilderness area preservation through the U.S. Forest Service management plans for the Pisgah and Nantahala Forests. In a related matter, Governor Martin supported legislation to include the Horsepasture River as part of the National Wild and Scenic Rivers Act, and I am pleased that Congress took the action that was necessary to protect this very, very important river.

The legislation before the committee today calls for additional wilderness area designation. As you have heard, the legislation that has been introduced by Senator Helms excludes from wilderness designation the lands adjoining the cemeteries left behind by the creation of the park and whose access was flooded by TVA back in 1943.

When TVA acquired the communities and lands necessary to build Fontana Lake in the 1940s, the Federal Government promised the residents a road so that they would be able to visit the grave sites of their ancestors. Senator Helms' bill honors this longstanding promise to the Swain County residents and their heirs.

Governor Martin and I support this approach. We feel that government must keep the promises that it makes to its citizens just as Senator Helms does. Credibility and trust in government are essential in our democratic system of government.

I want to stress that it is critical that the Park Service officials manage the construction and the operation of the north shore road to insure minimum disruption of the primitive nature and solitude which now characterizes the Great Smoky Mountains National Park. The north shore road should provide reasonable access to the grave sites, but it must not allow unnecessary clear-cutting, unmanaged access or intense development.

As you have heard, the legislation before you today would provide Swain County with a $9 million and a half payment to settle its outstanding claims from the 1940's TVA project. This figure has been arrived at, as you've heard, through years of deliberation. And truly the citizens of Swain County need this, as you recognize.

As I have listened to the testimony today, I have heard a couple of comments that somewhat disturb me. One is that—we have a lot about compromise, but I heard one instance where a gentleman said that the compromise includes both the $9½ million and the $1.6 million for the high school, and that if both these appropriations are not awarded by the Congress, that they do not believe that the compromise will exist. That concerns me as we continue our discussion on this bill because I believe we are dealing with a compromise.

I heard a gentleman representing the Wilderness Society say that no bill was better than the Helms' bill. To take the position that to exclude the citizens of this country from having over 400,000 acres of the Great Smoky Mountains National Park in a wilderness designation for the sake of whatever the wisdom of the Congress does on the additional 44,000 acres, whether they follow the Senator Helms' approach or Senator Sasser's approach or Director Mott's approach, is just not in the spirit of compromise. Whatever the committee does with that 44,000 acres, we would certainly urge that the other 400,000 some odd acres be included as a wilderness area.

In closing, Governor Martin has asked that I urge the committee to act favorably on Senate Bill 695. This bill introduced by Senator Helms will honor our commitment to the people of western North Carolina while at the same time preserving the wilderness value of the Great Smoky Mountains National Park.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Rhodes follows:]

Testimony of S. Thomas Rhodes, North Carolina
Department of Natural Resources and Community Development
On behalf of Jim Martin, Governor of North Carolina before
the Senate Subcommittee on Public Lands, National Parks and Forests
Washington, D.C.
June 23, 1987

Chairman Bumpers, Senator Wallop and distinguished Members of the Committee, I appreciate this opportunity to testify on Great Smoky Mountains Wilderness Legislation. For the record, my name is Tommy Rhodes, and I am Secretary of the North Carolina Department of Natural Resources and Community Development. I am testifying on behalf of Governor Jim Martin and in support of Senate Bill 695, introduced by Senator Jesse Helms.

This legislation would establish the Great Smoky Mountain Wilderness area and preserve 407,171 acres of forests in North Carolina and Tennessee. It would also honor a 44 year old promise to the citizens of Swain County, North Carolina.

We are extremely proud to have a major portion of the Great Smoky Mountains National Park in North Carolina. Its unique natural features make it a national treasure. It is also the most visited park in the outstanding national park system. Senate Bill 695 would designate the majority of the lands in the park as wilderness areas. This would affirm the present management policies of the National Park Service and it would insure these primitive natural areas are available for future generations to enjoy.

The Martin administration has supported expanded wilderness area preservation through the U.S. Forest Service Management Plans for the Pisgah and Nantahala Forests. In a related matter, I supported legislation to include the Horsepasture River as part of the National Wild and Scenic River Act and I am pleased that Congress took action to protect this river. The legislation before the committee today calls for additional wilderness area designation.

The legislation introduced by Senator Helms excludes from wilderness designation the lands adjoining the cemeteries left behind by the creation of the Park and whose access was flooded by TVA in 1943. When TVA acquired the communities and lands necessary to build Fontana Lake in the 1940's the federal government promised the residents a road so that they would be able to visit the gravesites of their ancestors. Senator Helms' bill honors this longstanding promise to the Swain County residents and their heirs. I support this approach because I feel that government must keep the promises it makes to its citizens. Credibility and trust in government are essential in our democratic system of government.

I want to stress that it is critical that the Park Service officials manage the construction and operation of the North Shore Road to insure minimum disruption of the primitive nature and solitude which now characterizes the Great Smoky Mountain National Park. The North Shore Road should provide reasonable access to the gravesites, but it must not allow unnecessary clearcutting, unmanaged access or intense development.

The legislation before you today would provide Swain County with a $9.5 million payment to settle its outstanding claims from the 1940's TVA project. This figure has been arrived at after years of deliberation. This settlement would support critical public services for the citizens of Swain County. These residents' revenues are severely restricted since more than 80% of the county's lands are tax-exempt entities such as the Park Service, TVA, the Cherokee Indian Reservation and Nantahala National Forest. This revenue limitation is coupled with an unemployment rate of 22%. You can readily see the importance of this cost settlement to the residents of Swain County.

In closing, Governor Martin has asked that I urge the committee to act favorably on S. 695. This bill, introduced by Senator Helms, will honor our commitment to the people of Western North Carolina and preserve the wilderness value of the Great Smoky National Park.

Senator **Bumpers**. Thank you very much, Mr. Rhodes.

Ms. Hogue.

Ms. Hogue, if you would please, take that microphone there and put it up as close as you can and be comfortable with.

STATEMENT OF N. CHARLENE HOGUE, BRYSON CITY, NC

Ms. **Hogue**. My name is Charlene Hogue, and I'm from Bryson City, NC, not Robinsville.

I'm a rising junior at the University of North Carolina at Chapel Hill, and I have lived in Swain County 17 of my 21 years. My parents are native Swain Countians and my family has lived in Swain County for over seven generations.

Although I am not a member of the North Shore Cemetery Association, I agree wholeheartedly with them on this issue as does the majority of Swain County.

Today Senator Terry Sanford, when asked, stated that he believed there is only one cemetery in the 44,000 acres discussed. In fact, there are 28. And it seems to me that important lawmakers, such as Senator Sanford, should get the facts before introducing important legislation which will affect so many people.

Also, some representatives from Swain County here today said that they felt that the vast majority of Swain County citizens were for the Clarke and Sanford bills. And I wonder by what authority they say this because I haven't spoken to one person in Swain County that is for any wilderness at all in Swain County. And the commissioners haven't done any kind of surveys or little has been done to educate Swain County about the legislation that is being proposed.

And there are just too many unanswered questions concerning the outcome of Clarke's bill for it even to be considered, not only questions about the north shore area, but questions about buffer zones, adjoining property owner rights and fire control. These have not been answered to the satisfaction of Swain County residents, and these people are directly affected by this legislation.

Sir, my ancestors came and settled in this rough, beautiful mountainous area. And they built homes and raised families. Later being patriotic American citizens, they gave up part of their land to help their country win the war. They signed a legal document with their government never doubting that the government would even hesitate to live up to its obligations, nor did these mountain people ever dream that a great great-granddaughter would be standing before a Senate committee decades later asking that a promise be honored and that this land not be turned into wilderness area.

How many of you have ever signed a contract? If the other party failed to meet its obligations, what would you feel? Would you feel frustration? Anger? Or would you take legal action? Would you have faith in this particular party again? Or would you doubt their credibility?

The U.S. Government seems to be very concerned with its international credibility, but what about its credibility to its own citizens and to the citizens of Swain County, North Carolina?

The 1943 agreement between Swain County citizens and the Government was not left open to future input. And that is what is happening today.

In the subcommittee hearings in Bryson City, they addressed the same issues being dealt with now. At these hearings Morgan Summerville, an Appalachian Trail regional representative, spoke in favor of turning the entire 467,000 acres of the park into wilderness area. He was against exempting the 44,000 of north shore land from wilderness saying that this reduction would seriously damage the proposed wilderness and negatively affect the experience of the Appalachian Trail hikers.

To me, in other words, he's saying that if this 44,000 acres was kept from wilderness, it might hurt somebody's walk through the woods. And this 44,000 acres is less than one-tenth of the proposed total land which will be designated wilderness under Clarke's bill. Surely there is enough room in this vast area for wilderness experiences elsewhere without turning the 44,000 acres of north shore land into wilderness. This acreage is not even suitable for wilderness designation. It is full of our heritage, which would be lost.

And when the people of Swain County were moved from this area, they were promised access and this suitable access has been interpreted as a boat ride across the lake, and then a ride in a tipsy horse trailer with the horse manure still in it. Would you call this suitable access for your grandmother or other elderly relative?

And I noticed that Senator Sasser from Tennessee is not willing to designate out of the Tennessee side of the park wilderness area. But it is easy to understand why because if all the North Carolina side was wilderness area, all the tourists would stay in Tennessee. And tourism is Swain County's lifeblood. And the only tourists that would be attracted to a wilderness is hikers seeking wilderness experiences, not the families and the retired citizens spending money in Bryson City right now.

The people of west North Carolina do not want or need any more wilderness. But since we have to compromise, we support Senator Helms' bill. We in Swain County should not have to compromise anymore, and Senator Helms' bill should be put through without being harmed further.

And furthermore, I feel that some form of protection should be established so that the people of Swain County do not have to continuously battle to keep the land from wilderness area. And the people of Swain County cannot afford the time and money to support lobbying efforts in Washington, DC, as the Sierra Club can and does. And Swain County's ancestors had a hard struggle claiming the land for future generations. Swain County should now be left alone, not preserved in a wilderness area to be visited occasionally by hikers, but as an area where future Swain Countians can live with some semblance of freedom.

Thank you.

[The prepared statement of Ms. Hogue follows:]

TESTIMONY OF
N. CHARLENE HOGUE
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

JUNE 23, 1987

As a citizen of Swain County, I am appalled by the lack of action by the residents of Swain County concerning the wilderness area bills which are being introduced in Congress.

If Swain County land is to be kept from wilderness the citizens of this county must take quick action.

There are too many unanswered questions concerning the outcome of Congressman Clarks's bill.

When land is designated wilderness, no permanent evidence of man is allowed to exist. Would this mean the grave markers of the North Shore Cemeteries would be removed and existing historical buildings torn down? What about access to these areas?

These and other questions concerning buffer zones, adjoining property owner rights, fire control, etc. are not being answered. These questions should be answered to the satisfaction of Swain County citizens who are directly affected by the wilderness legislation.

Land designated "wilderness" also means that a few privileged individuals, hikers in top physical condition who can afford to take the time and money would be able to enjoy the park which was set aside for everyone. The elderly, the handiapped, and just the average person should have the same privilege as some back-packer from wherever who desires a "wilderness experience". His "experience" should not be at the expense of Swain Counties who have already sacrified their land, their economy, have been lied to and taken advantage of by their government.

There should be no question as to whether Swain County should recieve the $9.5 million discussed in the proposed legislation.

The government cannot repay what it has taken from Swain County; a price cannot be put on our heritage.

Clarke bill supporters have said, in effect, "No wilderness, no money." This amounts to blackmail.

Swain County should not have to surrender even more liberties in return for a sum of money already owed its people, in exchange for the promised road which was never completed. The new Fontana Highway, or as it is known in North Carolina, The Road to Nowhere, would have opened up tourism in Swain County and resulted in a booming economy.

The citizens of Swain County have had little consulation with our elected representatives on how the majority feels about this issue.

It is time to forget your affiliation with a particular political party and stand united for a common cause; No Wilderness For Swain County.

I am here to say I support Senator Helms Bill #695.

Senator **Bumpers**. Ms. Hogue, I think I have misinformation. Do you live in Robinsville?

Ms. **Hogue**. Yes. I live in Bryson City, not Robinsville.

Senator **Bumpers**. You live where?

Ms. **Hogue**. Bryson City.

Senator **Bumpers**. Mr. Crisp, how big is Robinsville.

Mr. **Crisp**. Well, Robinsville has about 700 people.

Senator **Bumpers**. How big is Graham County?

Mr. **Crisp**. About 7,200. When they built the dam, they took about a third or more of our population.

Senator **Bumpers**. For the Fontana Lake?

Mr. **Crisp**. Yes.

Senator **Bumpers**. Is it Lake Santeetlah?

Mr. **Crisp**. Lake Santeetlah.

Senator **Bumpers**. How do you say it again?

Mr. **Crisp**. Santeetlah.

Senator **Bumpers**. Oh, I see. That is not an I. Yes, Lake Santeetlah.

Mr. **Crisp**. That is owned by the Aluminum Company of America.

Senator **Bumpers**. Pardon?

Mr. **Crisp**. It is owned by the Aluminum Company of America. Then we have two more besides that. We have the Tapoka and the Rimers.

Senator **Bumpers**. Is the Board of Commissioners of Graham County opposed to S.——

Mr. **Crisp**. We're opposed to wilderness. We are in favor, if they put that into wilderness, to include Cades Cover into it.

Senator **Bumpers**. Why do you want——

Mr. **Crisp**. If they make one part of the park wilderness, make it all that.

Senator **Bumpers**. Why was Cades Cove excluded in the first place?

Mr. **Crisp**. I do not know. I do know too that the Tennessee delegation had more authority. And you noticed this morning they brought Senator Sasser in here who should have nothing to do with North Carolina, but he wants that placed into wilderness in order to keep all the money from tourists over into Tennessee.

And if they would build that road down through there and open that area up, they could have another Cades Cove right in that area. And it would help all of us.

Senator **Bumpers**. Now, is Cades Cove a part of the park?

Mr. **Crisp**. Yes, it is.

Senator **Bumpers**. But it is just being excluded from the wilderness designation.

Mr. **Crisp**. Yes, it is.

Senator **Bumpers**. If you had your choice, would you approve of that part of Senator Helms' bill that puts 400,000 acres into wilderness?

Mr. **Crisp**. If I had my part?

Senator **Bumpers**. If you had your choice.

Mr. **Crisp**. I'd leave both of them out of wilderness if I had my way about it. But if I had to put one of them in wilderness, I'd put both of them in.

Senator **Bumpers**. Do you have any objection to the way the National Park Service is administering the park?

Mr. **Crisp**. No, I don't. We just don't want any more wilderness.

Senator **Bumpers**. Did you hear Mr. Mott say that they are managing the park as a wilderness——

Mr. **Crisp**. They have managed as wilderness now. But we can still go in there.

Ms. **Crisp**. We need improvements in the Great Smoky Mountains. We don't need wilderness. We already have 65,000 acres of wilderness in western North Carolina.

Senator **Bumpers**. 65,000 acres?

Ms. **Crisp**. Yes, in western North Carolina. We need to move forward. We don't need——

Mr. **Crisp**. If you go up there right now, you could see some of the environmentalists, the rainbow families, up in Graham County right now. And if you could see them, you would know why we don't want any more wilderness.

Senator **Bumpers**. See what family?

Mr. **Crisp**. The rainbow family.

Senator **Bumpers**. Well, tell me about the rainbows.

Mr. **Crisp**. You have to see them.

Senator **Bumpers**. Like a conflict of interest? You have to see it to know one?

Mr. **Crisp**. Yes. They are the hippies from the 1960s and 1970s.

Senator **Bumpers**. How many of them are there?

Mr. **Crisp**. Well, about the Fourth of July we are expected 10,000 to 12,000 in a county with 7,200 people.

Senator **Bumpers**. In one family? What do you mean family?

Mr. **Crisp**. Well, that's their name. It's just a group of people.

Senator **Bumpers**. It's just a group of people that go under the name "rainbow family"?

Mr. **Crisp**. Yes.

Senator **Bumpers**. And on the Fourth of July there will be 10,000 to 12,000 of them?

Mr. **Crisp**. Well, the week of the Fourth, yes. Anywhere from the first through the seventh. They held their meeting last year in Allegheny National Park in Pennsylvania. They go to a different place every year.

Senator **Bumpers**. Do they bother the people in Robinsville?

Mr. **Crisp**. Well, they aren't bothering us, but they sure have caused us a lot of costly planning.

Senator **Bumpers**. Better have what?

Mr. **Crisp**. Caused us some planning that we wouldn't have had to have done. We've had to hire extra—the Governor's Office is working with us.

Senator **Bumpers**. Do you think the rainbow family would leave if this weren't declared a wilderness?

Mr. **Crisp**. If it's declared wilderness——

Senator **Bumpers**. Pardon?

Mr. **Crisp**. They won't be back to us for 50 years anyway. They go to a different place every year.

Senator **Bumpers**. Well, I appreciate your strong feelings about this, and I appreciate the time and effort you have taken to come up here and testify. If you have any additional comments to communicate to the committee, we will be glad to hear from you. Thank you again.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Committee Questions

United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

IN REPLY REFER TO:
L58(180)

JUL 15 1987

Honorable Dale Bumpers
Chairman, Subcommittee on
 Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Bumpers:

As requested in your letter of June 23, enclosed are our responses to questions on S. 693 and S. 695, the Great Smoky Mountains National Park wilderness proposals.

We appreciate the opportunity to supplement our testimony.

Sincerely,

(Sgd.) Denis P. Galvin

for William Penn Mott, Jr.
Director

Enclosure

QUESTIONS FOR WILLIAM MOTT, DIRECTOR
NATIONAL PARK SERVICE

. Is it true that the Park Service today manages as wilderness the full acreage included for wilderness designation in the Sasser-Gore-Sanford bill? In other words, would S. 693 simply ratify the status quo as far as wilderness is concerned?

Answer: It is true that the National Park Service manages as wilderness all the land that S. 693 would designate as wilderness, except that motorized access to cemeteries is provided by management.

2. Mr. Mott, since the Park Service already manages the area being considered for wilderness designation as a natural environment zone, why is it appropriate for the area to be established as wilderness?

Answer: Management of the area now as if it were wilderness is based on administrative discretion, subject of course to the laws applicable to the national park system in general and this national park in particular. Wilderness designation by Act of Congress would assure that administrative discretion would not be used to permit developments and uses on Federal lands that are inconsistent with wilderness management.

3. Mr. Mott, you recommended a potential wilderness designation for the 44,000 acre TVA tract due to the existence of outstanding third party rights. If the Congress decided to give this area immediate wilderness classification, would the Park Service have any problems managing the area as wilderness? Could you tell us what those third party rights are? Have any of those rights been exercised over the last 40 years?

Answer: A partial list of reserved rights is attached. None has been exercised over the last 40 years except rights to cemetery access. If Congress were to designate the former TVA lands as wilderness, we can see no additional management problems arising as a result of wilderness designation, except that a special provision would be needed to provide clear Congressional authority to continue motorized access to cemeteries. The reason why there would be no additional management problems concerning reserved rights is because wilderness designation does not apply to non-Federal land or non-Federal interests in land. Such a designation would not extinguish or diminish whatever valid non-Federal rights existed before the designation. Accordingly, if the exercise of such rights would cause management problems before wilderness designation the exercise of the rights would cause problems afterward as well. The appropriate management response required by the exercise of valid rights should not be any different, since the rights are not diminished by wilderness designation.

Our recommendation that these lands be designated as potential wilderness is based on the possibility that these rights might be valid and someday might be exercised and if so, such activity, especially mineral extraction, would be inconsistent with wilderness. It would be our intention, if the lands were designated potential wilderness, to develop a plan for challenging these reservations and then proceed on a priority basis to extinguish them, including court action as necessary

4. Mr. Mott, what impact on park resources would occur if the Congress passed S. 695, which mandates construction of a new road in the park north of Fontana Lake?

Answer: The road would be up to 20 miles long, with many cuts and fills and stream crossings required. Construction would be expected to have a substantial long-term negative impact on water quality and fish habitat in park streams and Fontana Lake due to siltation and acid and heavy metal leaching. The road would require the removal of trees that have grown up on old back-country logging trails over the last 50 years. In addition, the road would invite wildlife management problems and misuse of other park resources, which would require additional attention by park rangers.

5. Is any other park user group granted special access rights similar to those now enjoyed by visitors to cemeteries in the park on the north shore of Fontana Lake.

   Answer: No.

6. What is your estimated cost of the road authorized by S. 695?

   Answer: At least $4 million for construction. Costs will be higher both for construction and maintenance if problems are encountered with the unstable geologic formations.

Partial List of Third Party Reservations

	Exception in Favor of:	Nature of Right
1.	J. E. Coburn et ux	Use of reservoir and its shoreline for manufacturing, storing, loading, and unloading timber, minerals or other products.
2.	J. H. Crisp and wife	One-half interest in minerals in 12 acres.
3.	Swain Development Co.	Mineral Interest.
4.	S. W. Black and Will W. Wiggins	Mineral Interest.
5.	Alleghany Company	Mineral Interest.
6.	Isaac T. Lenoir	Mineral Interest.
7.	Elizabeth S. Moon and Susie M. Woods	Mineral Interest.
8.	William Whiteside and wife	Mineral Interest.
9.	James Proctor and wife	Mineral Interest.
10.	William Proctor	Mineral Interest.
11.	William Welch	Mineral Interest.
12.	P. M. Westfeldt	Mineral Interest.
13.	E. G. Oates	Mineral Interest.
14.	Spurgin Hill and heirs of James Mitchell	Private Road.
15.	W. A. Dorsey	One-sixth mineral interest.
16.	Aluminum Company of America	150-foot rights-of-way for transmission lines.
17.	Heirs of J. J. W. McCoy	One-half interest in one tract.
18.	S. S. Collins and wife	Mineral Interest.
19.	C. W. Slagle and wife	Mineral Interest.

Partial List of Third Party Reservations

	Exception in favor of:	Nature of Right
20.	W. M. Bowden	Watering stock and fishing.
21.	Heirs of J.E. T. Welch	One-tenth interest in 10 acres and one-half interest in minerals.
22.	Gilmer Welch	One-tenth interest in 5 acres.
23.	D. G. Fisher	One-half of a spring and right to run pipes.
24.	W. B. Cole and wife	Watering stock and fishing.
25.	William N. Cooper	One-twelfth interest in minerals.
26.	Swain County Board of Education	School purposes.
27.	Nathan B. Thompson	One-fourth mineral interest.
28.	James W. Cooper	One-fourth mineral interest.
29.	Shadrick Hyatt and wife	Mineral Interest.
30.	Sarah A. Anthony Heirs, Lettie N. Hill Heirs, etc.	Five-sixths mineral interest.
31.	Heirs of W. C. Welch and wife	One-half mineral interest and one-half fishing interest.
32.	W. T. Mason Lumber Co.	Mineral Interest.
33.	C. E. Johnston, et. al.	Mineral Interest.
34.	Hazel Creek Land Co.	Mineral Interest.
35.	Moses Proctor Heirs	Mineral Interest.
36.	J. W. Welch and Catherine Welch	Mineral Interest.
37.	J. G. Stike Leather, et al	Fishing rights in Hazel Creek.
38.	W. F. Howell	Mineral Interest.
39.	Mary Hall, Hammie Hall, Dewey Hall	Mineral Interest.
40.	O. R. Lovin and wife	Mineral Interest.

Partial List of Third Party Reservations

	Exception in favor of:	Nature of Right
41.	J. E. Collins and wife	Mineral Interest.
42.	J. J. and W. T. Schuler	One-sixth mineral interest.
43.	Lettie Hill, Jane H. Hyatt, Julius N. Garret, et al	Five-sixth mineral interest.
44.	Champion International Corp.	One-sixth mineral interest.
45.	Henry Wadkins and wife	Mineral Interest.
46.	James M. Styles and wife	One-half mineral interest.
47.	J. H. Everette and wife	One-half mineral interest.
48.	J. M. Duvall	Two-thirds mineral interest.
49.	Arnold E. Bradshaw and wife	Mineral Interest.
50.	James Nichols and wife	One-third mineral interest.
51.	John B. Hoyle and wife	One-half mineral interest.
52.	Joseph Keys, Trustee	Eleven-twelfth mineral interest.
53.	Thomas I. McClure	One-half mineral interest.
54.	M. A. Chambers	One-half mineral interest.
55.	James Kirkland et al	Mineral Interest.
56.	C. G. Moon and wife	Mineral Interest.
57.	D. E. Gunter and wife	One-fourth mineral interest.
58.	L. M. Medlin	One-half mineral interest.
59.	J. E. Pilkington and wife	One-half mineral interest.
60.	Magie Welch	Mineral Interest.
61.	North Carolina Exploration Co.	Mineral Interest.
62.	Robert Swan and wife	Mineral Interest.

Partial List of Third Party Reservations

Exception in favor of:	Nature of Right
63. James R. Bradshaw and wife	Mineral Interest.
64. Heirs of J. J. Calhoun	Mineral Interest.
65. Harris-Woodbury Lumber Co.	Such rights as may be vested.
66. G. W. Gunter and wife	Mineral Interest.
67. Carolina Aluminum Co.	150-foot rights-of-way for transmission lines; flooding rights; remove stumps; all rights necessary for maintenance and operation of Cheoah Development and Reservoir.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF ERNEST M. DICKERMAN RE S. 693, GREAT SMOKY MOUNTAINS WILDERNESS BILL, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, AT WASHINGTON, D.C., JUNE 23, 1987

My name is Ernest M. Dickerman, address Rt. 1, Box 156, Swoope VA 24479, telephone (703) 337-8000. I am testifying today as an individual in support of S. 693, the Great Smoky Mountains Wilderness bill introduced by Senator Jim Sasser of Tennessee and co-sponsored by Senator Albert Gore, Jr. of Tennessee and Senator Terry Sanford of North Carolina.

My thanks, Chairman Bumpers and Members of the Subcommittee on Public Lamds, National Parks and Forests, for the opportunity to appear before your Committee and to express my views on S. 693. I trust that the Committee will find it possible to expedite its deliberations on this bill. We have waited 22 years for this legislation, during which there has been continuing discussion of the subject by numerous parties. Public consensus has been arrived at; and the National Park Service for half a dozen years now has been managing the Great Smokies Park in conformity with the wilderness plan declared in S. 693. Accordingly we hope that this Subcommittee and the full Committee will be disposed to seek early enactment by the full Senate of the Sasser-Gore-Sanford Great Smoky Mountains Wilderness bill S. 693.

May I indicate the basis of my long interest in this legislation. Tho retired and now living in Virginia, for 35 years I lived at Knoxville, Tennessee and during those many years my principal liesure time activity was prowling in the Great Smoky Mountains, hiking and camping in the backcountry of the Great Smokies Park. For 22 years I have been working, together with others, to get the protection of the Wilderness Act for the extensive undeveloped portions of the Park: working since some of us drew up the first wilderness proposal for the Great Smokies in 1965; since the first National Park Service wilderness hearings held in June 1966 at Gatlinburg, Tennessee and Bryson City, North Carolina; since we defeated, after a six-year battle, a proposal by the National Park Service to build a new transmountain highway across the wilderness of the Great Smokies Park; and ever since, as the citizens and the National Park Service, working together, steadily improved the wilderness proposal for the Park. Today I come here again to testify in support of the 467,000 acre wilderness plan for the Great Smoky Mountains National Park, as now presented in S. 693.

GENERAL COMMENT ON S. 693

Commenting on S. 693, the placement of approximately 467,000 acres of the Great Smokies Park in the National Wilderness Preservation System is excellent, as provided in Sec. 2 and as delineated on the National Park Service map titled "Proposed Management Zoning, Great Smoky Mountains National Park, North Carolina and Tennessee", dated March 15, 1981. This encompasses substantially all of the undeveloped lands of the Park, exclusive of certain limited, specified areas reserved for special management for ecological or historical reasons.

At the same time this plan leaves open between 150 and 200 miles of motor vehicle roads for general public use within the Park. It permits additional development, as may become desirable, in such major developed areas as Cades Cove, Sugarlands and Smokemont plus a dozen or more smaller identified areas. Access to existing cemeteries is recognized, as provided by law and recently upheld by the federal courts. The inholdings formerly owned by the Cities Service Company and the 44,000 acres formerly owned by the Tennessee Valley Authority until ceded to the jurisdiction of the National Park Service under terms of the 1943 Agreement are both specifically included within the designated wilderness, under Sec. 2(a). In short, S. 693 provides for the genuine application of the Wilderness Act to the outstandingly high quality wilderness resource of the Great Smoky Mountains National Park.

PARSONS BRANCH ROAD

Expressing a personal desire, I would prefer that the Parsons Branch Road (running southwesterly thru the Park from the southwest corner of Cades Cove to US 129 highway) be included withthe Wilderness System and be permanently closed. Even the possibility of this presently narrow, seasonal, one-way dirt road some day being converted to a full-scale park road, and offering a shortcut for thru traffic across the Park via Cades Cove, is bad. I suggest that at least there be strong language in the committee report declaring it the Congress' intent that the physical standards and use of this road not be raised from the present status described in the March 1981 "Proposed Management Zoning" and "General Management Plan".

SETTLEMENT OF 1943 AGREEMENT

Sec. 4 of S. 693 provides for a cash payment of $9,500,000 and canceling of a federal debt for the benefit of Swain County, North Carolina in full settlement of the July 30, 1943 Agreement. This Agreement called for construction of a new road to replace an ancient one flooded by TVA's Fontana Reservoir, which new road was never completed. Such a settlement seems a right and proper way to permanently dispose of this matter.

It is appropriate to note that in reaching a public consensus on the provisions of a Great Smokies Wilderness bill, citizen advocates for wilderness and their coalition of private organizations agreed with representatives of Swain County to mutually support the National Park Service' wilderness plan as contained in that agency's zoning & management plan dated March 15, 1981 (Sec. 2(a)(1) and (2) of S. 693) and Swain County's request for approximately $10 million as compensation for never building the road provided for in the 1943 Agreement (Sec. 4 of S. 693). This was and is a quid pro quo agreement and one without any conditions nor qualifications affecting the applicability of either provision. In the interest of not upsetting this agreement and the public consensus of which it is a part, we suggest there should be no delay in the full application of the Wilderness Act upon enactment of S. 693 or equivalent legislation by the Congress.

ALTERNATIVE BILL S. 695

It seems necessary to comment on S. 695 as filed by Senator Jesse Helms of North Carolina, which bill would substnatially reduce the extent and quality of the wilderness resource of the Great Smokies Park. S. 695 would do this by excluding from the protection of the Wilderness Act a 44,000 acre tract despite its clearly high wilderness characteristics; by requiring the construction of a new public road within that tract; and by defering the effective date of all statutory wilderness designation within the Park until construction has been accomplished of the proposed new motor vehicle road.

Obviously none of these provisions contributes to a sound application of the Wilderness Act in the Great Smokies Park. On the contrary, their effect is to noticeably decrease the protection by the Wilderness Act of the Park, without need nor justification. Complete rejection of S. 695 is the essence of wisdom.

DUBIOUS RETAINED MINERAL RIGHTS IN THE 44,000 ACRES

In some quarters a question has been raised as to whether the 44,000 acres acquired by the National Park Service from TVA under the Agreement of July 30, 1943 should be placed in the Wilderness System because of privately retained mineral rights therein. There has been no development of these rights for more than fifty years, suggesting extremely low mineral values and little likelihood of their ever being exploited. Even during World War 2 the copper holdings of Cities Service Company (recently acquired by the Park Service) were not of sufficient economic worth to warrant their being worked.

Putting the 44,000 acre tract in the Wilderness System would in no way infringe on the property rights of the owners of the retained mineral rights because the Wilderness Act specifically provides in Sec. 4(c) and (d) that existing valid rights shall not be denied. If threat of any development ever arose, there probably would be a vigorous public demand that Congress promptly appropriate the needed money to buy out the particular mineral rights, simply because of being located within a great national park.

As a matter of fact, it is quite probable that none of these retained mineral rights are any longer valid under prevailing North Carolina law, which law requires that such rights shall have been re-filed to prevent their expiration.

The 44,000 acres acquired under the 1943 Agreement should be included in the Great Smoky Mountains Wilderness, as the Sasser-Gore-Sanford bill S. 693 provides.

CONCLUSION

In conclusion, I urge that this Committee give early approval to S. 693 as introduced by Senators Jim Sasser, Albert Gore, Jr. and Terry Sanford.

Thank you, Chairman Bumpers and Members of the Committee.

TESTIMONY OF
MRS. HELEN C. VANCE
PRESIDENT, NORTH SHORE CEMETERY ASSOCIATION
BEFORE THE
SENATE SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS
AND FORESTS

JUNE 23, 1987

June 16, 1987
Sylva, N.C.

Mr. Chairman and Distinguished Members of the Sub Committee:

We believe in the conservation of the Great Smokey Mountains National Park and we believe in the preservation of our mountain culture. We, therefore support Bill No. S.695. This bill doesn't take anything away from Swain County, N. C. settlement and also provides for better access to our cemeteries.

The government made a legal contractual agreement with Swain County, State of North Carolina and the Department of Transportation. We beg our government to show good faith in this 44 year old contract. This contract was made before there was a wilderness act, the environmentalist lobby and the Sierra Club. To whom should the government give the most consideration? These groups would make the Great Smokey Mountains National Park available only to a few people who are able to back pack, hike and fish. They would simply exclude the elderly, the young, the handicapped and the average american. We are concerned for the future if this bill, S. 695 isn't passed in both houses. Will we be able to access freely 10 years from now to our children, brothers, sisters, fathers, mothers, grandparents, etc. graves if this area goes into wilderness?

We don't know the answer and greet the promises made in the other bills with skepticism. There are mineral rights, burial rights plus other rights on the 44,000 acreage north of Fontana Lake and for this reason we feel these lands are not suitable for wilderness designation.

We are very concerned about the activities on Fontana Lake if this area should ever go into wilderness. We believe the conclusion of a report of a special committee of North Carolina National Park, Parkway and Forest Development Commission made in April, 1960 is applicable today. See attached report. Also see attached sheet that shows a copper mine, (there are two copper mines) on this acreage and how logging railroads crisscrossed this area, ran up Hazel Creek to within one mile of Siler's Bald which is right on top of the Smokies.

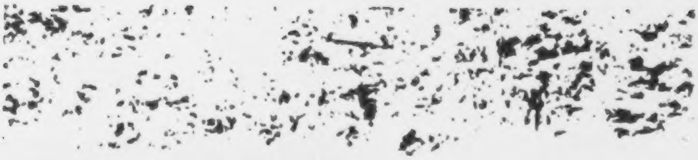
We urge the passing of bill S.695 for the settlement with Swain County, N. C., keeping the 44,000 acres out of wilderness and better access to our loved ones graves.

Also see attached sheet with pictures that shows how we travel and the accident with 60-70 year old people spilled on the ground. This happened in October, 1986.

Thank you.

Sincerely,

Helen C Vance
Helen C. Vance
President, North Shore Cemetery Assoc.



Copper Lode Lies Deep Within The Smokies

MEDLIN — Chances are no man ever will know the real worth of a 200-acre tract of land near here on the Little Fork of Sugar Fork of Hazel Creek in the Great Smokies.

But Granville Calhoun, who died in 1978 at the age of 103 years, went to his grave convinced that it contains one of the richest copper deposits in all the land.

"Papa was always saying there was a fortune just waiting to be dug up there on Little Fork Ridge," said Seymour Calhoun who lives in Bryson City. "But he said he guessed it never would since it had become a part of the Great Smoky Mountains National Park."

When Fonzy Hall discovered it in 1883 while looking for mica, he thought he had struck gold. But when he showed a big hunk of the ore to Britt Cook down at Proctor, the old man studied it for a few minutes and then said, "copper, copper... copper."

"It's not worth much," the old man said. "Just a few cents a pound. Besides it's too far from the railroad and would be too costly to get out."

But in 1889, when copper jumped from 8¼ to 13¼ cents a pound, W. S. Adams of New York heard about the Little Fork Ridge copper from one of his representatives, Mark Bryson of Webster, and told him to send him some samples.

Bryson came in and with Granville Calhoun and Crate Hall and some of the other men around here blasted out some of the ore.

Bryson picked the richest 25 pounds, put it in his saddle bags and rode to Bushnell where he shipped it by train to Adams in New York.

Adams got his chemists to assay it, and the ore ran so high in copper content that he got on the train and came down and proceeded to purchase the holdings.

"That was in 1889," Seymour Calhoun said. "And Papa and some of the other fellows started to work on it, exposing the ore. It was right on top of the ground, just sticking out."

Meanwhile, Granville Calhoun and a crew of mountain men flung up a mining village on Little Fork, sunk shafts, and were on their way to reaping a bonanza when a dispute over ownership of the land closed down the operation.

The closing came just when Adams was getting ready to put in an electric plant and some smelters at the mouth of Sugar Fork at Medlin.

The law suit raged through the courts for 26 years before it was finally settled.

—Turn To Page Five-A

John
Parris

Roaming HCV The Mountains

ASHEVILLE CITIZEN-TIMES, Sun., Feb. 8, 1981 5A

—Continued From Page One

By then the original litigants were dead.

Then came the Great Depression and it wasn't until 1943 that they got back to operating the mine.

Meanwhile, the American Alumnium Company had started buying up land for a hydroelectric operation on the Little Tennessee River here in Swain County. And when World War II came on, the Tennessee Valley Authority took it over and built Fontana Lake and its power facility.

That spelled the end of the copper mining operation on Little Fork, for the lake covered the only road into Hazel Creek and the railroad had to be abandoned.

But before the lake filled up, the mine was worked for little better than a year.

That was in 1943 when Julius Gillis of Sylva came and opened up the mine. He shipped out quite a bit of copper, trucking it out by way of Sugar Fork and Proctor to the railroad down at Ritter on the Little Tennessee.

Then, the Kolbs of New York who had purchased the property several years before from the Adams heirs were more or less forced into selling the tract to the TVA. The government paid them $122,815.63.

"Papa knew and worked for the Kolbs," Seymour Calhoun recalled, "and he said if they could have had their way they wouldn't have taken a million dollars for the property. But the government had them in a bind. There was no way for them to get the copper out, what with the highway and the railroad gone."

Folks familiar with the copper site say there's still plenty of copper that could be mined. And all high grade stuff that could make a man rich, what with copper bringing 85 to 87 cents a pound these days.

Gillis, who last operated the mine, took a hundred tons of ore out of one opening and he was just on the inside with copper all around him when he had to quit.

There's a vein of copper 20 feet wide that runs across No. 4 tunnel. Copper from one side to the other, and the tunnel goes in 300 feet and has several forks.

Granville Calhoun helped cut all the tunnels, four in all, which run from 300 to 400 feet with 13 side tunnels off the main ones.

The site of what had promised to reap a great copper bonanza has returned to wilderness. The tunnels are filled with water, five to six inches deep at the mouths. Around the side of the ridge lie the fallen, rotting remains of what had promised to be a prosperous mining village.

About all that remains are the tunnels that bore into the ridge and a great slag heap.

CONCLUSION OF
REPORT OF A SPECIAL COMMITTEE
OF
NORTH CAROLINA NATIONAL PARK, PARKWAY AND FOREST DEVELOPMENT COMMISSION

April 14, 1960

This committee feels that, under these circumstances, the resolution of the Board of County Commissioners of Swain County was justified; that there undoubtedly is a disposition on the part of the National Park Service not to build this road even though they are bound by the 1943 contract to do so. Since this contract is with a Federal Agency, it is a matter in which the North Carolina Delegation in Congress should be able to exercise their infludence.

There can be no doubt that there is a valid contractual obligation to build the road, a valuable consideration was given up by Swain County in return, among other things, for a promise to build the road by the Department of the Interior. Swain County acceded without objection to the taking off its tax rolls of 44,400 acres of land that were not actually needed by the Federal Government for Tennessee Valley Authority purposes or for the Great Smoky Mountain National Park. Most of the inhabitants of the area have left the county. To have had access from the center of the county to an "around the Park" road would have been an important element in building the Tourist Industry of the county. The economy of the county, to a large extent, depends upon the tourist industry. For the National Park Service to refuse to build this road now is not only a clear breach of the explicit terms of a contractual obligation but, under the circumstances, it appears to be a breach of faith on the part of the Federal Government.

The State of North Carolina and all the surrounding counties have an interest in what has happened to the "around the Park" road that was included in the Master Plan for the Development of the Park. It will be noted that there are sections of such a road on the Tennessee side of the Park. It has been the understanding of this Commission that such a road would eventually be built on the North Carolina side of the Park. If the "Master Plan" has been changed, no notice has been given to the State of North Carolina or to the people of this area.

The North Carolina delegation in Congress should inquire of the Park Service whether or not this Master Plan has been changed. Inquiry should also be made as to whether or not the "around the Park" road has been abandoned on the North Carolina side of the Great Smoky Mountains National Park.

Apparently the National Park Service feels that the road from Bryson City to Fontana Dam is no longer necessary since a State Highway on the South side of Fontana Lake has been partically constructed. What has happened to the idea of a road that might be restricted "solely to pleasure and tourist traffic?" What has happened to the idea of a road from which "commercial vehicles" could be excluded? Certainly when these provisions were put in the contract in 1943, they indicated that "commercial" and other non-pleasure and non-tourist traffic would be taken care of by another route. The road on the South side of the Lake is that other route. The state of North Carolina is fulfilling its obligation to provide for this traffic. The Federal Government, through the National Park Service, should fulfill the obligation that was undertaken in the 1943 contract and build the road from Bryson City to the Fontana Dam.

There are reasons for building this road aside from the benefit to Swain County and the surrounding area generally. Such a road would provide a way for the average American to penetrate the vastness of the Great Smoky Mountains National Park without having to undergo the hardship of a mountain hike or an overnight camping trip. The average modern day American is fitted neither by experience nor by training for such an arduous adventure. Yet he can gain something from the relaxing experience of a drive with his family through a wilderness area where, aside from the automobile, the highway is the only evidence of civilization. There will still be plenty of areas in this vast park within which those more hardy individuals with stamina and fortitude who take their love of nature more seriously can hike, camp, and "rough it" to their hearts' content. After all, the average American's taxes help pay for the maintenance and development of a National Park. Therefore, there should be more of it accessible for him and his family to enjoy.

This Commission feels also that the other projects for the development of the Park have been too long delayed. The Museum - or Visitor Center, as such attractions are now generally called, was promised long ago to be built near the Ranger Station at Oconaluftee. We were led to believe it would, by this time, have been ready to house some of the articles of pioneer life and culture that were, in the early days of the Park, collected from the citizens of North Carolina and taken to Park Headquarters at Gatlinburg, Tennessee. It is our information that many of these articles have now disappeared.

The Camp Grounds at Deep Creek and Smokemont need to be expanded and new Camp Grounds need to be built. A road from Galbreths Creek into the Deep Creek Camp Grounds that will provide an approach from the East was promised many years ago, but has not been built. These matters should also interest the North Carolina delegation to the Congress.

This Commission has tried to give aid and assistance to the National Park Service in its operations in North Carolina. Generally the National Park Service has shown a cooperative spirit. However, this Commission would not be doing its duty as an agency of North Carolina if it did not call to the attention of the North Carolina delegation to the Congress those instances wherein there appears to be a failure to develop the North Carolina side of the Great Smoky Mountains National Park.

For the information of some members of Congress who may not be familiear with the Great Smoky Mountains National Park, the original purchase was made about one-half by North Carolina and Tennessee and about one-half by the Rockefeller family. North Carolina issued two million dollars in bonds to pay its share of the purchase price. Therefore, the whole state of North Carolina has an interest in the development of this important natural resource of North Carolina.

In accordance with the instruction under which this special committee was appointed, this report is passed on to the North Carolina delegation in the Congress for such action as to them seems appropriate. Attention is called to the fact that the Congressional District in which the Great Smoky Mountains National Park is located, due to the death of Congressman David M. Hall, does not now have a representative in the Congress.

Respectfully submitted,

/S/ Wm. Medford
William Medford, Chairman

/S/ F. H. Brown, Jr.
Frank H. Brown, Jr., Member

/S/ Kelly E. Bennett
Kelly E. Bennett, Member

Special Committee, North Carolina
National Park, Parkway and Forests
Development Commission

Waynesville, North Carolina
April 14. 1960

Jan 10-1980

1-10 1980

Logging Railroads Ran To Top Of The Smokies

hew

Roaming The Mountains

JOHN PARRIS

By JOHN PARRIS

PROCTOR – At the age of 84, Seymour Calhoun remembers back when logging railroads crisscrossed the Great Smokies like spider webs.

"They ran up every creek, with spur lines fanning out in every direction," he recalled the other day. "Some of them ran right to the top of the Smokies."

This was during the great lumber boom that erupted in the early 1900s when Yankee lumbermen discovered the virgin forests of the Great Smokies.

The discovery turned the two-bit settlement of Proctor into a Sutter's Mill, the Klondike in the age of the ax and the crosscut saw, a milltown pulsing to the whine of sawteeth slicing more than 100,000 board feet of timber a day.

"I saw the first logging railroad come into this country," said Calhoun, who grew up here but was forced to move out when the federal government turned the Smokies into a national park in the 1940s and who now lives up at Bryson City. "The Ritter Lumber Company built it and my father, who was Granville Calhoun, turned the first shovelful of dirt.

"That was around 1905. The railroad ran 10 miles up Hazel Creek, starting at Ritter at the mouth of the creek where it connected with the North

—Turn To Page 10

Logging Railroads

hew

—Continued From Page One

Carolina and Tennessee Southern Railway.

"The Hazel Creek line was chartered as the Smoky Mountain Railroad to haul passengers and freight the first 10 miles up the creek. The logging railroad ran on up Hazel Creek to within a mile of Siler's Bald, which is right on top of the Smokies.

"There were spur lines up Sugar Fork, Bone Valley Creek, Walker's Creek and Huggin's Creek and several of the branches.

"Other lumber companies soon followed Ritter into these parts and began logging the country west and east of the Hazel Creek tracts.

"Kitchens Lumber Company built a logging railroad up Twenty-Mile Creek. Another went up Eagle Creek almost to the top of the Smokies.

"Another railroad went from the mouth of Forney Creek to within a mile of Clingman's Dome. My father led the crew that laid out the road. From Clingman's Dome they had a skidder to take the balsam logs to where the railroad ended.

"There was also a logging railroad up Noland Creek. And Champion Fiber Company had a main line that ran up the Oconaluftee from Ravensford and Smokemont to Newfound Gap with several spur lines. It operated until the land was taken over for the park.

"But Ritter had the biggest operation and the most miles of track. Besides the main line up Hazel Creek and the main spurs, there were little spur tracks that went up the little branches.

"They'd put a railroad up as far as they would need it. Maybe it would go just a half mile or a mile. They'd put it in there until they got through cutting the timber in that section, then take up the track and put it in another section.

"Ritter had all its logging camps on wheels and would move the camps when they finished cutting out. From 1909 until they shut down in 1926, Ritter shipped out 166 million board feet of timber that was cut on Hazel Creek. They estimated that only 15 million feet remained on the headwaters of Hazel Creek.

"I began working in Ritter's bandmill at Proctor when I was 14 years old and stayed with them until they closed down. We sawed some mighty big timber. We turned out boards of poplar 56 inches wide after they had been squared down. Some of them were so wide they wouldn't go through the edgers. And some of them wouldn't go through the trimmers.

"They had these Shay engines that operated on the logging railroads. They could go straight up a mountain with them. But it was dangerous running. They had to keep the tracks sanded to keep them from running away.

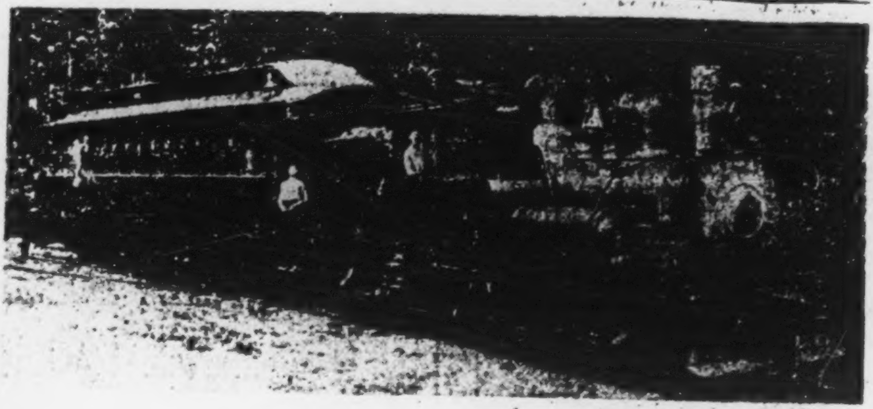
"The passenger train that ran up Hazel Creek to Medlin ran up and back once a day. Finally, they done away with the passenger train. Then Ritter put a passenger car on the logging train, like a caboose, and that traveled on all the trips and when they were hauling logs they would stop and pick up passengers along the way as well as haul goods into the settlements.

"The train from Bryson City to Fontana—it was a branch of the Southern—ran once a day. It left Bryson City about 8 or 9 in the morning and made stops at Bushnell and Judson and Forney and Wayside to unload supplies. Lots of times it was a way up in the evening before it got to the station at Ritter which was four miles below Proctor.

"The railroad from Bryson City to Fontana came through a tunnel at Judson. And sometimes now when Fontana Lake is way down you can see where the tunnel entered the ridge and where it come out."

Seymour Calhoun paused and shook his head.

"Times have surely changed," he said. "The lumbering days in the Smokies are gone. The country's gone back to wilderness. The railroad tracks for the logging trains have disappeared. But you can travel up any creek in these parts and still see where the road beds were."



—Photo Courtesy Of Seymour Calhoun

The Smoky Mountain Railroad, As It Was 70 Years Ago

THE SMOKY MOUNTAIN TIMES- Thursday, March 15, 1984

Chronology Of The 1943 Fontana Agreement

(Ed. Note: This chronological synopsis of meetings, proposals and events associated with the 1943 Fontana Agreement was compiled by George Ellison from records in the Swain County Clerk of Courts office, interviews with with some of those familiar with the agreement and controversy, and from files of the Smoky Mountain Times.)

October 8, 1943: Entered into on this date by the Department of the Interior, the Tennessee Valley Authority, the State of North Carolina and Swain County. Contract provided that some 44,000 acres of land acquired by TVA for the development of Fontana Dam and Reservoir be added to the Great Smoky Mountain National Park. In return for the land the National Park Service agreed to build 34 miles of road along the north shore of Fontana Lake as replacement for the existing road to be flooded with the rising waters of the reservoir.

1947-48: A 0.93 mile spur of road was built at Fontana Dam. Remainder of actual road construction can be summarized at this point:

The State of North Carolina fulfilled its 1943 contract obligations by building a 2.67 mile section from Bryson City to the GSMNP Boundary in 1957-59. Gov. Luther Hodges urged that the terms of the agreement be honored by the Park Service despite its failure to act from 1948 into the 1960's. In 1960 the NPS began scheduling construction of the North Shore Road. A 2.5 mile link from the park boundary was completed in Aug., 1963; 2.1 miles were added from 1963-65; and a mile segment with a 1200-foot tunnel was completed in 1971.

Sept. 3, 1965: Wilderness Act of 1964

1965: Amendment proposed to the 1943 Agreement substituting a 34.7 mile transmountain road for the North Shore Road. It was to connect Bryson City with Townsend, Tenn., using the north shore route from the N.C. park boundary as far as Forney Creek from where the road would have gone north over the mountain. Swain County and N.C. agreed to the amendment.

June, 1966: Hearings held in Bryson City and Gatlinburg, Tenn. on the 1964 Wilderness Act. At that time Swain County agreed with NPS recommendations to set aside six wilderness areas amounting to 247,000 acres within the park.

Dec. 10, 1967: Sec. of Interior Stewart Udall announced his decision not to approve transmountain road, directing instead that construction continue on the North Shore Road toward Monteith Branch, where a marina and other recreational facilities would be developed.

Summer, 1968: Proposal made by N.C. Gov. Dan Moore that in lieu of road the Blue Ridge Parkway be extended from its present terminus near Cherokee to Bryson City.

March 18, 1969: Sec. of Interior Hickel met with Congressmen from N.C. and Tennessee on transmountain road question. On June 2? he instructed the director of NPS to study issue and prepare a report. This directive was reaffirmed by Rogers Morton who replaced Hickel in 1970.

1971: Early in year NPS issued its "Transportation Concepts: Great Smoky Mountains." Report outlined possible solutions to the 1943 Agreement proposed by various groups and agencies. These included all previously discussed alternatives. NPS itself advanced two new proposals: (1) Visitor Transit Concept: NPS would [illegible] rail and bus service to provide a car-free loop between N.C. and Tenn. and eventually close U.S. 441 to private motor vehicles; and (2) Circumferential system of parkways: NPS proposed to create a system of parkways encircling the GSMNP whereby U.S. 441 "can be obliterated and returned to its natural state." Second alternative endorsed by NPS Director George B. Herzog, and opposed by state and local leaders in N.C.

1971-74: Various attempts, primarily involving Cong. Roy Taylor of N.C., were made to maintain communication and momentum on settlement of the 1943 Agreement.

July, 1974: GSMNP Superintendent Vincent Ellis proposed that 76 percent of park lands be included in wilderness. This plan was opposed by state and local leaders until '43 Agreement settled.

1975: Meeting held in spring involving N.C. Dept. of Natural and Economic Resources, NPS, TVA, Swain County and wilderness protection groups, at which time some points on which parties could agree began to develop. A 10 Point Plan included a cash settlement, extension of the Blue Ridge Parkway and other considerations in lieu of completion of either North Shore or Transmountain Roads.

N.C. State HWY. No. 288 was built in the early 1920's by the Forney Creek Road District from the proceeds of bond issues totaling $600,000. In August, 1940, Swain County assumed the outstanding principal of $456,000, together with the accrued interest of $235,000. $400,000 was transferred from TVA in fulfillment of its 1943 contract agreement. Swain County made its final payment in 1976 for a road which had been submerged for over 30 years.

1975-76: The NPS continued to stress environmental concerns in its planning. Little progress made in advancing 10 Point Proposal or other vehicles for settlement.

1977: North Shore Cemetery Association formed by Helen Cable Vance and Mildred Johnson. Group first asked for access road. Group provided own transportation to cemeteries at this point.

Chronology, p. 2

THE SMOKY MOUNTAIN TIMES- Thursday, March 15, 1984

— Chronology, from p. 1 —

1978: NPS began providing jeep transportation for cemetery association members.

August, 1978: At request of Cong. Lamar Gudger Sec. of Interior Cecil Andrus visited Swain County to "listen and learn."

October, 1978: Sec. Andrus directed six-member committee to restudy 1943 Agreement controversy.

Jan. 15, 1979: Fontana Agreement Committee first met in Waynesville chaired by David Felmet. On Feb. 15 the group met in Waynesville with Swain County offering a 7 Point Proposal. By spring the negotiators were considering a 12 Point Proposal with Swain County maintaining that "a cash settlement in excess of $10 million" be a part of the final agreement in lieu of a road.

1980: Value of the old road from Bryson City to Fontana was established at $1,300,000; this, compounded annually from 1943 to 1980 at a rate of 5 percent, yielded a total of $9,609,582. Sec. Andrus endorsed this settlement figure on Nov. 28, 1980 and signed a document to this effect. A bill introduced by Gudger in 1980 would have provided a $9.5 million cash settlement and cancelled a $3.2 million Farmers Home Administration loan to Swain County. Bill passed the House but did not clear Senate.

1980: NPS began providing barge transportation across the lake for cemetery association members.

1982: Cemetery association began transporting tombstones as repalcements in family cemeteries.

November, 1982: Congressman-Elect James McClure Clarke told the Swain County Commissioners that he would try to help the county solve the old controversy.

July 14, 1983: Clarke introduced his first settlement bill in the House (HR 3567).

Octover 7, 1983: U.S. Sens. Jim Sasser and Howard Baker (Tenn.) introduce legislation in the Senate (S 1947). Identical legislation introduced in the House Nov. 1 by Cong. John Duncan of Tennessee and Clarke of N.C. (HR 4267) designating certain lands in the GSMNP as wilderness and providing funds for the relief of Swain County.

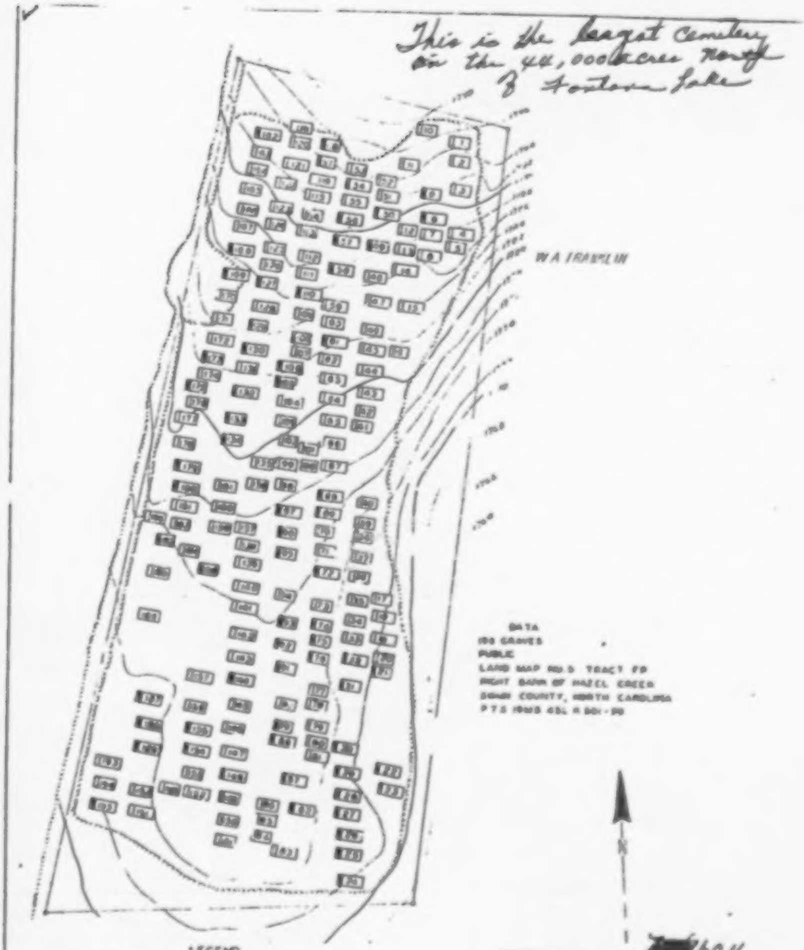
November 14, 1983: An alternative to Baker-Sasser bill introduced by N.C. Sens. Jesse Helms and John East. Helms-East added a provision for an additional payment for construction of a cemetery access road.

March 16, 1984: U.S. Senate Hearings on proposed legislation in Bryson City.

March 27, 1984: U.S. Senate hearings on proposed legislation in Washington, DC

(Note: the Helms bill calls for 400,000 acres [illegible] into GSMNP wilderness, while Baker-Sasser and Clarke-Duncan ask for 467,000 in wilderness acreage. Both bills would authorize cash payment of $9.5 million and the forgiveness of FHA loan for the construction of Swain County High School. Helms bill excludes 44,000 acres north of Fontana Lake from wilderness designation and would authorize the expenditure of $950,000 to provide an access road to the cemeteries within park boundaries.)

The gravestones of Appalachia are the most accurate remaining artifactual evidence of the people who settled, lived, and died in the mountains. Because most of them, from 1800-1900, were created by family members, they clearly mirror the culture's educational levels, artistry, emotions, religion, and exposure to or isolation from the popular styles within the dominant culture. No other artifact is accessible to all mountain people. Everyone with mountain roots has ancestors buried in the mountains; most are represented by gravestones containing not only their names and dates of birth and death, but excellent personal expressions of close family members who condensed a lifetime of feelings into their portrayals on these stones. Lacking calf-bound volumes of Appalachian history, these stones are our most readable accounts of early life in Appalachia. We must protect, respect, and preserve them as we would our most cherished heirlooms of the past.



This is the largest cemetery on the 44,000 acres North of Fontana Lake

DATA
190 GRAVES
PUBLIC
LAND MAP NO.5 TRACT 70
RIGHT BANK OF HAZEL CREEK
SWAIN COUNTY, NORTH CAROLINA
PTS 10MB 43L R 301-20

LEGEND
▭ GRAVES WITH MONUMENTS AND NAMES
▬ GRAVES MARKED BUT UNNAMED
□ GRAVES UNMARKED AND UNNAMED
⬚ QUESTIONABLE GRAVES

[redacted]bcv

CEMETERIES

PROCTOR CEMETERY	NO. 20

FONTANA RESERVOIR
TENNESSEE VALLEY AUTHORITY
MAPS AND SURVEYS DIVISION
SCALE OF FEET

CHATTANOOGA	11-8-42	19	20	432A902-20

Professional Engineer
Consultant

Environment
Conservation

LEROY G. FOX
4110 JOMANDOWA LANE, KNOXVILLE, TN 37919
(615) 588-5058

STATEMENT OF
LEROY G. FOX, KNOXVILLE, TENNESSEE
BEFORE THE
SENATE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS
JUNE 23, 1987

I am Leroy G. Fox of Knoxville, Tennessee. I have been an interested party for more than twenty years in the campaign for wilderness in the Great Smoky Mountains National Park, and I have testified here before. I am very appreciative to the Subcommittee for the opportunity to testify once again for wilderness in the Smokies.

It has been 23 years since the Wilderness Act was passed by the Congress to protect and preserve the best of our public lands for posterity. Approximately ten years ago serious negotiations were successfully concluded between the National Park Service and Swain County, North Carolina to resolve a long dispute between these two parties over alleged non-performance of the US Government in the construction of a road within the Great Smoky Mountains National Park along the north shore of Fontana Reservoir.

The monetary elements of that ten year old resolution have been incorporated in the S.693 introduced by Senators Jim Sasser and Albert Gore, Jr. of Tennessee and Senator Terry Sanford of North Carolina. Within that Bill also is contained the language to designate 467,000 acres of the Great Smokies Park to be Wilderness, as defined by the Wilderness Act.

There are several basic reasons why I recommend passage of S.693:

A. The Great Smoky Mountains National Park consists of qualifying Federal land which has been well protected in the past, and it now has a General Management Plan (GMP) of 1982 to define further how the Park will be managed in the next decade.

B. Even the Park's GMP is subject to periodic review and to possible drastic, adverse changes arising out of administrative or political whims. For example, the National Park Service could renege on valued current elements of its own GMP if placed under intense, local political pressures; Congressional protection is needed to restrain such whims.

C. S.693 would resolve the infamous "1943 Agreement" controversy in Swain County, North Carolina, without accommodation to any intervenors from that state who were not parties to that document.

As other testimony here today indicates, there is overwhelming support in both Tennessee and North Carolina for this Bill. We are going down the same path as in 1983's proposed legislation; namely, that wilderness status for approximately 467,000 acres of the Park is being held hostage for authorizations of a monetary settlement of Swain County's claims, and vice versa.

Let us look back a few years to see how Wilderness in the Smokies and monetary relief for Swain County became paired. In the late 1970's two regional programs were going on; a series of public hearings to help formulate a General Management Plan for the Park, and a series of meetings of an "ad hoc" committee charged by Secretary Andrus, Department of the Interior, with finding a compromise solution for Swain County's claims. The latter committee proposed a twelve point plan which would, if authorized by appropriate legislation, resolve the controversies resulting from the "1943 Agreement", but none of the points included wilderness in the Park. We proponents of wilderness attended the meetings of the "ad hoc" committee and endorsed its final report because we felt the points to be equitable, honorable, and attainable.

Meanwhile, the public hearings held in both states addressed the draft GMP for the Park and the various impacts of that plan. The final GMP adopted in 1982 proposed 467,000 acres of the Park as Type I Natural Area; that is the area which the National Park Service is obligated to manage almost, but not quite, as if it were with wilderness status. It followed that this expanse of Natural Area should be the focus of the Smokies Wilderness as proposed in this bill, S.693.

So, Mr. Chairman, why has there been a series of similar Bills in both Houses for the above purposes which has not progressed beyond Subcommittee hearings? The answer lies with opposition within North Carolina, not Tennessee, to the proposed legislation. Intervenors without legal status, as determined by the U.S. Supreme Court,in the basic issues, such as the Northshore Historical Association, have had their champions in Congress; however, we suggest that the action of such intervenors is contrary to the interests of Swain County, of North Carolina, of Tennessee and of the Nation.

As a resident of Tennessee having an interest in ALL of the Park and in the Southern Appalachian Region, I have been led to the sad conclusion that the long cooperative relationship that we have had with our allies in Swain County is seriously threatened by the content of S.695 introduced by Senator Jesse Helms of North Carolina. S.695 would designate only about 400,000 acres of the Park as wilderness and, astoundingly, in its Section 5(b) calls for almost $1 million to destroy the wilderness character of thousands of acres of the Park by construction of an environmentally destructive road to provide vehicular access to cemeteries selected by the Northshore Historical Association. Access to various cemeteries north of Fontana Reservoir is now guaranteed to be provided in a reasonable and safe manner by the current GMP of the Park as referred to in Senator Sasser's Bill, S.693.

Much of the area north of Fontana Reservoir was acquired in 1943 by the Tennessee Valley Authority and transferred to the National Park Service in 1948. The NPS has felt reticent to recommend that transfer tract of 44,000 acres for wilderness status because of certain reserved rights there; however, it has been ascertained that the TVA will, under the terms of the transfer, protect and defend the NPS from claims upon the NPS to exercise mineral rights. It also appears that North Carolina statutes concerning the extinguishment of ancient mineral claims is applicable to the transfer tract. I am appending to my testimony a letter from Mr. William H. Skelton, dated April 16, 1987, of the Knoxville law firm of Baker, Worthington, Crossley, Stansberry & Woolf and certain documents enclosed with that letter. These appedices indicate clearly that there is little justification for the NPS to withhold "instant" wilderness status for this tract in its position on the bills being considered today.

And let us not overlook the fact that the route of a road proposed in the Helms Bill would disturb the acidic rocks of the Anakeesta Formation with a resultant adverse impact on aquatic life and fisheries of the waters of Fontana Reservoir; surely a detrimental impact on the economy of Swain County.

I thank you for your attention.

Leroy G Fox

Enclosures: Letter; April 16, 1987,
William H. Skelton to Leroy G. Fox

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DURWARD S. JONES
OF COUNSEL

* ADMITTED IN GEORGIA ONLY

April 16, 1987

Mr. Leroy G. Fox
4116 Jomandowa Lane
Knoxville Tennessee 37919

Dear Roy:

I am enclosing herewith several documents I have received from TVA in connection with our inquiry with regard to the status of the title to the 44,000 acres. Most important is the Agreement of Transfer between TVA and the Department of Interior dated March 31, 1948. You should note, beginning on page 4, the reservation of certain specific rights. The principal rights which appear to possibly be outstanding are Items A, B, C, D, E, F, H, I and K. The rights in subparagraphs G and J were apparently being acquired by TVA at the time of that agreement, and upon acquisition would pass to the Department of Interior under paragraph 4 of the Agreement.

However, in spite of the listing of such reserved rights, paragraph 4 of the Agreement goes on to provide that TVA indemnifies the Department of Interior from any loss, damage or expense arising out of any mining of the properties conveyed to the Department of Interior. This would seem to include all of the mineral claims listed in subparagraphs 3A through 3K.

We should therefore be able to make several points to the National Park Service in connection with outstanding mineral claims:

A. TVA has indemnified the Department of Interior from any loss by reason of the exercise of any mineral rights and specifically states that it is the intention "that TVA shall at all times protect the Department from any interference with or restriction upon the Department's use of said lands for park purposes where such interference or restriction arises out of the exercise or assertion of outstanding mineral rights or interests." In practice, therefore, the Park Service has a commitment from TVA to either defend any attempted mineral claims or, if such defense fails, to acquire the mineral claim. This means that it is extremely unlikely that wilderness designation would be threatened by mineral claims.

B. The specific listing of the mineral claims in the Agreement of which TVA was aware should allow the Park Service, by consulting their records, to determine which of such claims have been extinguished. Possibly, many or most of them have been acquired. Included is the deed from City Service Company to the United States which certainly extinguished the City Service portion.

C. I am advised by TVA that they have received notice since 1948 of only one claim (a claim of a fee interest which was immediately acquired by TVA). This is also my general knowledge and I believe yours. Accordingly, it is, from a practical matter, very unlikely that any claims from mineral rights will be exercised.

D. Finally, there is the enclosed North Carolina statute which we have previously discussed and which contains two provisions that would appear to also minimize any potential mineral claims (Section 1-42.1, North Carolina Statutes):

(i) Where the mineral rights have been separated from the fee ownership of land and such severed mineral rights have not been listed for ad valorem tax purposes in the county in which the property is located for ten (10) years prior to January 1, 1971, any person who had, on September 1, 1971, an unbroken chain of title of record to the fee simple estate for at least fifty (50) years (which the Department of Interior probably has) then such title holder takes the property free and clear of the mineral interest unless the mineral claimant files a notice in writing in the county within two (2) years after September 1, 1971. It would be interesting to determine whether any such notices have been filed but I doubt it.

(ii) Within two (2) years from November 1, 1971, all mineral interests in land which are separated from the fee simple ownership must be listed for ad valorem taxes to be effective against the owner of the fee simple interest. Again, it would be interesting to determine whether any of the 44,000 acres was listed for ad valorem taxes but, again, I doubt it.

The foregoing would seem to provide a substantial amount of comfort to the National Park Service in being able to recommend wilderness designation for the 44,000 acres in spite of any currently outstanding mineral rights that have not been formally cancelled.

Best regards.

Sincerely,

William H. Skelton

WHS:jcm

cc: Mr. Ray Payne
Mr. Ted Snyder

AGREEMENT OF TRANSFER

Between

TENNESSEE VALLEY AUTHORITY

And

UNITED STATES DEPARTMENT OF THE INTERIOR-
NATIONAL PARK SERVICE

Relating To

LANDS IN SWAIN COUNTY, NORTH CAROLINA

THIS AGREEMENT OF TRANSFER, made and entered into this 31 day of March, 1948, by and between TENNESSEE VALLEY AUTHORITY, a corporation organized and existing under and by virtue of an Act of Congress known as the Tennessee Valley Authority Act of 1933 (hereinafter called "TVA"), and UNITED STATES DEPARTMENT OF THE INTERIOR, for the use and benefit of the National Park Service of the United States Department of the Interior (hereinafter called "Department"),

WITNESSETH:

That for the purposes and considerations expressed in an agreement made and entered into as of the 30th day of July 1943, by TVA, the Department, the State of North Carolina, and Swain County, North Carolina, said agreement being identified by Contract No. TV-20454, but subject to the approval of the President of the United States as provided by section 4(k)(c) of the Tennessee Valley Authority Act of 1933 as amended, TVA and the Department hereby covenant and agree as follows:

1. TVA, subject to the conditions, exceptions and reservations hereinafter contained, hereby assigns and transfers to the Department for the use and benefit of the National Park Service as a part of the Great Smoky Mountains National Park the right of possession and control of and all other right, title, and interest which TVA may have in and to the following described lands:

> Approximately 44,170 acres of land situated on the north side of Fontana Reservoir, in Swain County, North Carolina, said land being particularly described in the schedule which is attached to and hereby made a part of this agreement as Appendix A, and being shown colored in cross-hatched yellow on Map 19 MS 453 K 505 R1 attached and made a part of this agreement as Appendix B.

2. In addition to the interests assigned and transferred under section 1, TVA shall and does hereby give and grant to the Department, its agents, servants, and invitees the right of access to and use of all lands of the United States in TVA's custody lying upstream from US TVA Corner 2-4A N.C. (the coordinates of which are N. 656,154 and E. 568,716) between the 1710 ft. contour of the non-insular land covered by said section 1 and low watermark on Fontana Lake, for the purpose of constructing and maintaining thereon boating and recreational facilities, piers, docks, and related equipment, and of performing all other acts which may be reasonably necessary to the administration and use, as a part of the Great Smoky Mountains National Park, of the lands TVA's interest in

which is assigned and transferred to the Department under section 1.

3. All of the interests and rights assigned, transferred, and granted by TVA to the Department under sections 1 and 2 hereof are assigned, transferred, and granted subject to:

(a) The following rights which are hereby expressly reserved to and retained by TVA for itself, its successors, and assigns: (1) the unrestricted right in perpetuity to make whatever changes may be necessary or desirable in facilities for the storage, use or distribution of water, and to construct, maintain, and operate such additional structures and facilities and carry on such activities as it may deem necessary to carry out its program of flood control, navigation, and incidental generation of power, as authorized by the Tennessee Valley Authority Act of 1933 as amended; (2) the right of ingress and egress at all times to and from any point; (3) the right to operate Fontana Reservoir and fluctuate the water level thereof at any time or to any height; (4) the right to enter upon any part of the land affected hereby and perform any acts which it may deem necessary for the furtherance of malaria control and shoreline sanitation, with due consideration being given to the National Park Service's program; (5) the right to maintain and operate any electric power transmission and distribution lines, telephone and telegraph lines, and water flumes and railways, and other facilities now located on said land, together with the right to construct, operate, and maintain such additional transmission, distribution, telephone and electric lines, water flumes and railways, and other facilities on said land as it may hereafter deem necessary for the exercise and accomplishment of its statutory powers and purposes; (6) the right at all times without limitation or restriction to flood, or to suffer, permit, agree upon or cause the flooding of, by the waters of any present or future reservoir located below Fontana Dam, any lands affected by this agreement located west of a line extending due north and south from the center of Fontana Dam, to an elevation of 1279 feet above mean sea level, and to flood or suffer, permit, agree upon or cause the flooding of said lands to such additional elevations as may result from wave action, floods, and other high water conditions; and (7) the right in its discretion to remove from the shore of any present or future reservoir located below Fontana Dam and the land under such reservoir and to destroy or otherwise dispose of silt, drift, timber, vegetation, and other matter, and to use said shore and land for such purposes and any other purpose reasonably connected with the maintenance and operation of such reservoir or the dam associated therewith, together with the right of ingress, egress, and regress for such purposes with tools, vehicles and equipment across any of the properties affected by this agreement. It is understood that any and all of the rights reserved under this subparagraph (a) may be exercised directly by TVA or by and through agents or contractors, and that TVA may grant to or permit the exercise by others of rights of the class or character described in subdivision (5) of this subparagraph, as well as the rights described in subdivisions (6) and (7) of

(Chgd) J.A.

this subparagraph, either by agreement, sufferance, through execution and delivery of perpetual easements, or otherwise; provided, however, that any formal agreement, grant or permit concerning the exercise of such rights by others shall, at the time when made or issued, in TVA's judgment, have a relationship to its statutory program, purposes and objectives.

(b) To such rights of way and other rights, if any, which the Aluminum Company of America or its subsidiaries may be obligated under an agreement dated July 1, 1915, as amended by an agreement dated March 10, 1921, between the Aluminum Company of America, et al. and Southern Railway Company, et al., to grant and convey to Southern Railway Company, its successors, assigns, or nominees; and to rights of way of 150-foot width for any transmission lines of the Aluminum Company of America or its subsidiaries which may be constructed to interconnect its or their plants with the power system of TVA, the location of such rights of way to be mutually agreed upon between the Aluminum Company of America and TVA. The rights referred to in this subparagraph (b) are the same as those described in paragraphs 1 and 2 of Article III of Exhibit B to an agreement between TVA and the Aluminum Company of America dated August 14, 1941, recorded in the office of the Register of Deeds of Swain County, North Carolina, in Deed Book 63, page 398, et seq., and may affect TVA land tracts Nos. FR-17, 25, 27, 28, 29, 80, 82, 87, 88, 91, 92, 93, 96, 97, 98, 101, 103, 105, 106, 125, 127, 134, 138, 141, 142, 144, 147, 149, 150, 154, 156, 157, 158, 160, 161, 162, 163

169, 170, 171, 172, 174, 175, 176, 177, 178, 179, 180, 248, 249, 250, 254, 258, 259, 260, 261, 262, 264, and 1293.

(c) To such exceptions and reservations contained in a deed from Carolina Aluminum Company to the United States of America dated December 17, 1943, recorded in the office of the Register of Deeds of Swain County, North Carolina, in Deed Book 68, page 270, et seq., as may affect TVA land tract No. FR-1255, including (1) such rights of way as may be vested in the State of North Carolina to State Highway 288; (2) such rights of way as may be vested in third parties to a telephone or telegraph line; (3) such burial rights in an existing cemetery and rights of ingress and egress in connection therewith as may now be outstanding in third parties; and (4) rights of way for transmission lines to be constructed by Carolina Aluminum Company or its associated companies to interconnect with the TVA power system.

(d) To such right of way interests as may be vested in the Southern Railway Company with respect to TVA land tracts Nos. FR-19, 179, 249, 250, 254, 259, 261, 262, 264 and 1293, and to a fee simple interest outstanding in the Southern Railway Company in TVA land tract No. FR-928, all of which interests are now in the process of acquisition by TVA in the name of the United States.

(e) To such rights or easements as were reserved to the Harris-Woodbury Lumber Company by deeds of record in Book 34, page 36; Book 44, pages 263 and 265; Book 46, page 306 and Book 49, pages 440, 466, 473, 475, and 567 in the Register's office of Swain County, North Carolina, affecting TVA land tracts Nos. FR-378, 1001, 1018, 1020, 1021, 1023, 1024, 1032, 1227, 1230, 1234, 1235, and 1292.

(f) To such burial rights and rights of ingress and egress in connection therewith as may be outstanding in third parties in TVA land tracts Nos. FR-494, 712, 1018, 1019, 1020, 1026, 1081, 1135, 1175, 1178, 1185, 1202, 1206, 1210, 1216, 1222, 1245, 1276, 1279, 1281, and 1282.

(g) To such rights as may be vested in the State of North Carolina and the public to rights of way for public roads, affecting TVA land tracts Nos. FR-17, 18, 25, 27, 28, 29, 80, 82, 87, 96, 101, 103, 381, 443, 445, 446, 452, 454, 456, 463, 465, 466, 467, 468, 470, 471, 478, 480, 494, 495, 496, 497, 506, 510, 515, 516, 517, 518, 547, 550, 556, 563, 566, 672, 711, 712, 713, 714, 721, 722, 723, 727, 728, 729, 730, 731, 750, 751, 894, 900, 901, 913, 1085, 1086, 1087, 1090, 1092, 1093, 1095, 1160, 1223, 1255, 1265, 1266, and 1293, all of which rights of way are now in the process of acquisition by TVA in the name of the United States.

(h) To such rights as may be vested in third parties to telephone and transmission line rights of way affecting TVA land tract No. FR-1283.

(i) To such water rights as may be outstanding in D. G. Fisher or his successors in title in TVA land tract No. FR-138 by virtue of his deed dated October 25, 1907, recorded in Deed Book 31, page 448, in the Register's office of Swain County, North Carolina.

(j) To the undivided 56/1440 interests each of Wallace O. Westfeldt and Jane Westfeldt Smith in tract FR-1349, which interests are in the process of acquisition by TVA in the name of the United States.

(k) To such rights as may be vested in third parties to minerals and mining rights in the TVA land tracts Nos. FR-29, 80, 106, 127, 128, 134, 141, 162, 163, 169, 170, 172, 174, 248, 249, 250, 254, 258, 264, 345, 379, 380, 446, 478, 490, 498, 502, 503, 506, 507, 508, 509, 510, 515, 560, 673, 675, 717, 719, 913, 1006, 1009, 1010, 1011, 1012, 1013, 1015, 1016, 1017, 1018, 1019, 1020, 1024, 1025, 1026, 1030, 1031, 1032, 1034, 1035, 1036, 1062, 1063, 1071, 1072, 1084, 1086, 1087, 1090, 1092, 1095, 1121, 1122, 1139, 1143, 1154, 1155, 1156, 1157, 1158, 1162, 1172, 1174, 1175, 1184, 1185, 1226, 1229, 1232, 1233, 1260, 1274, 1276, 1290, 1293, 1296, and 1302.

4. TVA in no way warrants the extent of its interest in the property assigned and transferred under section 1 hereof; provided, however, that any interest which may hereafter be acquired by TVA in and to any of said lands shall pass to Department, subject to the terms and conditions hereof, automatically and without the necessity of any new and separate transfers or assignments thereof; and provided further that, anything herein to the contrary notwithstanding, TVA shall and hereby agrees to indemnify the Department against and save it forever harmless from any obligations and liability and any loss, damage, or expense arising out of the claims and demands of, or the actual or threatened mining of said property or any part thereof by, any party or parties owning or holding title to any minerals contained in said land or owning or holding the right to mine any such minerals, it being the intention hereof that TVA shall at all times protect the Department from any interference with or restriction upon the Department's use of said lands for park purposes where such interference or restriction arises out of the exercise or assertion of outstanding mineral rights or interests. It is understood and agreed, however, that TVA shall

at all times have and exercise full control over the handling, defense, settlement, and disposition of all claims, demands, suits, and actions filed with or against the Department, TVA, or the United States based upon outstanding mineral rights or interests; that TVA may compromise, settle, or dispose of any and all such claims, demands, suits, and actions in any manner or by any method or procedure which it may see fit to adopt in its sole discretion; that the Department shall promptly notify TVA in writing concerning any such claims, demands, suits, or actions filed with or against the Department or the United States, and concerning any mining or threatened mining of any of said land by the holder of any mineral rights or interests therein; and that the Department shall not, except pursuant to judicial judgment or decree, pay, compromise, settle, or otherwise dispose of any such claim, demand, suit, or action without the written consent of TVA.

5. The Department agrees to administer and operate the lands, TVA's interest in which is transferred by section 1 hereof, as a part of the Great Smoky Mountains National Park in a manner designed to afford maximum watershed protection. None of said lands shall be resold or exchanged or opened to entry.

6. It is agreed that in the performance of any acts or functions or the exercise of any rights or privileges upon or affecting the land described in section 1 hereof, due consideration shall be given by each party to the rights, interests, and program of the other, it being the intention of the parties that they shall, by consultation and otherwise, at all times cooperate to the fullest possible extent in the promotion of their separate as well as their common interests with respect to said land,

and in the accomplishment of their respective programs and objectives in the area.

7. Nothing herein contained shall be construed to constitute a waiver of or compliance with any of the provisions of section 26a of the Tennessee Valley Authority Act of 1933, as amended, or to affect or limit in any way the powers and duties given to and imposed upon TVA by said section 26a.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers, the day and year first above written.

Approved by TVA
Board of Directors
MAR 3 1 1948
L.L.
ASSISTANT SECRETARY

TENNESSEE VALLEY AUTHORITY

By George F Gant
General Manager

288
2934

ATTEST:

Leona LeRoy
Assistant Secretary

UNITED STATES DEPARTMENT OF THE INTERIOR
JUN 10 1949

By J A Krug
Secretary

APPROVED:

HARRY S. TRUMAN
President of the United States

The White House

NOV 15 1949, 194~~X~~9

FONTANA RESERVOIR AREA
LAND PROPOSED FOR TRANSFER TO U. S. DEPARTMENT OF INTERIOR (NATIONAL PARK SERVICE)

A tract of land (except those parcels hereinafter excluded) lying in Forneys Creek and Charleston Townships of Swain County, State of North Carolina, on the north shore of Fontana Lake, between Mountain Branch (which is approximately 1-1/4 miles northwest of the northwest Corporation Line of Bryson City) and Twenty Mile Ridge; the said tract being bounded as follows:

BOUNDED ON THE NORTH AND WEST:

By the present boundary of the Great Smoky Mountains National Park;

BOUNDED ON THE EAST:

By the said park boundary and a line described as follows:

Beginning at an angle iron the coordinates of which are N. 660,658 and E. 665,571 at the intersection of the present boundary of the Great Smoky Mountains National Park and the top of the divide between Noland and Peachtree Creeks.

From the initial point easterly along the meanders of the top of the divide between Noland and Peachtree Creeks then southerly along the meanders of the top of the divide between Peachtree and Lands Creek along the following approximate bearings and distances,

S. 77° 42'., 620 ft.;

S. 6° 42' E., 570 ft.;

S. 34° 42' E., 2320 ft.;

S. 6° 42' E., 900 ft.;

S. 31° 18' W., 480 ft.;

S. 12° 18' W., 470 ft.;

S. 15° 42' E., 1150 ft.;

S. 30° 42' E., 820 ft.;

S. 23° 18' W., 560 ft.;

S. 2° 42' E., 300 ft.;

S. 39° 18' W., 570 ft.;

S. 6° 18' W., 350 ft.;

S. 6° 13' W., 350 ft.;

S. 25° 48' W., 465 ft.;

S. 59° 37' E., 305 ft.;

S. 60° 37' E., 495 ft. to a point the coordinates of which are N. 651,730 and E. 667,855;

Leaving the top of the divide, by bearings and distances,

S. 24° 19' W., 1948 ft. to a black oak stump;

S. 20° 52' E., 491 ft. to a 30 in. spanish oak tree the coordinates of which are N. 649,496 and E. 667,228 at the top of the divide between Peachtree and Lands Creeks;

Southwesterly along the meanders of the top of the divide along the following approximate bearings and distances,

S. 23° 54' E., 126 ft.;

S. 54° 55' W., 200 ft.;

S. 78° 00' W., 245 ft.;

S. 8° 41' W., 851 ft.;

S. 80° 35' W., 443 ft.;

S. 14° 35' W., 493 ft.;

S. 51° 35' W., 257 ft.;

N. 88° 25' W., 287 ft.;

S. 29° 05' W., 473 ft.;

S. 69° 05' W., 300 ft.;

S. 38° 37' W., 138 ft.;

N. 38° 41' W., 339 ft.;

S. 77° 16' W., 585 ft. to an 8 in. post oak tree;

Leaving the top of the divide, by bearings and distances,

S. 3° 59' E., 912 ft.;

S. 31° 31' W., 349 ft.;

S. 24° 57' E., 245 ft.;

S. 1° 15' E., 156 ft. to a 24 in. pine tree;

S. 11° 31' E., 276 ft. to a 10 in. chestnut tree;

N. 03° 05' E., 300 ft.;

N. 77° 49' E., 539 ft., crossing Lands Creek at 200 ft., more or less

S. 20° 58' W., 825 ft. to a 15 in. beech tree;

S. 57° 46' W., 262 ft. to an 18 in. maple tree the coordinates of which are N. 544,250 and E. 664,393 on the left bank of Lands Creek;

S. 33° 10' E., 403 ft.;

S. 23° 33' W., 434 ft.;

S. 65° 23' W., 132 ft.;

S. 30° 50' E., 361 ft. to the center of Mountain Branch;

Southwesterly downstream along the meanders of the center of the branch 975 ft., more or less, to the 1710 ft. contour on the north shore of Fontana Lake;

BOUNDED ON THE SOUTH:

By the north shore of Fontana Lake at elevation 1710 from the center of Mountain Branch to the north boundary of State Grant 1387 (which is the north boundary of a tract of land acquired by the Tennessee Valley Authority in the name of the United States of America from the Nantahala Power & Light Company under the designation of Tract No. FR-438); the intersection of the 1710 ft. contour and the north boundary of State Grant 1387 being located 3600 ft., more or less, as measured along the shore of Fontana Lake in a northerly direction from Fontana Dam;

Thence by a line described as follows:

Beginning at the intersection of the 1710 ft. contour and the north boundary of State Grant 1387 from which US TVA Corner 2-4A W.C. (the coordinates of which are N. 656,154 and E. 563,719) bears N. 73° 30' W., 25 ft.

From the initial point (intersection of the 1710 ft. contour and the north boundary of State Grant 1387) by bearings and distances,

N. 73° 30' W., 322 ft., passing US TVA Corner 2-4A W.C. at 25 ft., to US TVA Corner 2-4;

S. 69° 30' W., 2090 ft., passing US TVA Corner 1-4 at 1372 ft., to US TVA Corner 1-3;

N. 89° 05' W., 250 ft. to US TVA Corner 1-2;

S. 2° 47' W., 1083 ft. to US TVA Corner 1-1 the coordinates of which are N. 654,026 and E. 565,481 at the intersection of the west boundary of a tract of land acquired by the Tennessee Valley Authority in the name of the United States of America from the Carolina Aluminum Company under the designation of Tract No. FD-18 and a line 150 ft. north of and parallel to the center of the access road to Fontana Dam;

Thence westerly along the meanders of the line 150 ft. north of and parallel to the center of the access road to Fontana Dam 3 miles, more or less, to the present boundary of the Great Smoky Mountains National Park at the top of Twenty Mile Ridge.

EXCEPTING AND EXCLUDING from the above-described tract three parcels of land owned by the North Carolina Exploration Company described as follows:

Parcel 1

Those portions lying above elevation 1710 of a parcel of land described as follows:

Beginning at a point the coordinates of which are N. 671,005 and E. 584,997 at the intersection of the center of Pinnacle Creek and the present south boundary of the Great Smoky Mountain National Park.

From the initial point by bearings and distances,

N. 68° 54' E., along the park boundary, 440 ft., more or less, to the center of Pinnacle Creek;

Easterly upstream along the meanders of the center of the creek 560 ft., more or less, to the present south boundary of the Great Smoky Mountains National Park;

N. 68° 54' E., along the park boundary, 140 ft., more or less, to the center of Pinnacle Creek;

Easterly upstream along the meanders of the center of the creek 1540 ft., more or less;

S. 2° 56' W., 193 ft.;

S. 83° 13' E., 650 ft. to a point the coordinates of which are N. 671,308 and E. 588,194;

S. 27° 05' E., 2442 ft. to a dead 20 in. chestnut tree the coordinates of which are N. 669,132 and E. 589,306;

S. 78° 58' W., 3178 ft.;

S. 53° 58' W., 523 ft.;

S. 75° 58' W., 1039 ft.;

S. 32° 21' W., 353 ft. to a 22 in. hemlock tree;

S. 23° 49' W., 409 ft. to a pine stump;

S. 25° 18' W., 1116 ft.;

S. 81° 48' W., 588 ft.;

S. 6° 46' W., 642 ft., passing a 14 in. hemlock tree at 200 ft., to a stake;

S. 4° 17' W., 1876 ft. to a black oak stump;

S. 50° 48' W., 1139 ft. to an iron pin;

S. 28° 18' E., 573 ft. to an iron pipe;

N. 69° 01' E., 2126 ft. to a dogwood stump;

N. 27° 27' E., 1009 ft. to a 24 in. chestnut snag;

N. 78° 08' E., 1160 ft. to a chestnut stump at the top of Pinnacle Ridge;

S. 6° 01' W., 1671 ft.;

S. 85° 59' E., 767 ft. to a 36 in. oak tree the coordinates of which are N. 662,477 and E. 585,053 at the top of the divide between Hazel and Eagle Creeks;

Southerly along the meanders of the top of the divide along the following approximate bearings and distances:

S. 22° 37' W., 570 ft.;

S. 16° 23' E., 870 ft.;

N. 86° 23' W., 770 ft.;

S. 68° 37' W., 800 ft.;

S. 39° 37' W., 620 ft.;

S. 43° 37' W., 350 ft.;

N. 89° 23' W., 1130 ft.;

S. 22° 37' W., 420 ft.;

S. 61° 37' W., 320 ft., crossing a saddle at the head of Cable Branch;

S. 37° 37' W., 400 ft.;

S. 73° 37' W., 260 ft.;

S. 28° 37' W., 560 ft.;

S. 0° 23' E., 750 ft.;

S. 5° 07' W., 1060 ft.;

S. 74° 37' W., 590 ft.;

S. 2° 37' W., 1350 ft.;

S. 45° 37' W., 400 ft.;

S. 37° 37' W., 515 ft.;

S. 50° 37' W., 370 ft.;

S. 39° 37' W., 360 ft.;

S. 41° 37' W., 200 ft.;

S. 3° 23' E., 350 ft.;

S. 2° 07' W., 300 ft. to a hub the coordinates of which are N. 652,942 and E. 379,515;

Leaving the top of the divide, by bearings and distances,

S. 54° 19' W., 2136 ft., crossing the 1710 ft. contour at 1815 ft., more or less;

N. 53° 12' W., 1034 ft. to the center of the former location of the channel of Myers Branch,

Southwesterly downstream along the meanders of the center of the former location of the channel of the branch 100 ft., more or less;

N. 86° 46' W., 244 ft.;

S. 35° 15' W., 70 ft. to the former location of the northeast right of way line of the Carolina and Tennessee Southern Railway;

Northwesterly along the former location of the right of way line 2390 ft., more or less;

N. 19° W., 215 ft. to a line 300 ft. north of and parallel to the former right bank of the Little Tennessee River;

N. 64° W., along the line 300 ft. north of and parallel to the former right bank of the Little Tennessee River, 90 ft., more or less, to Shuckstack Ridge;

Northerly along the meanders of the top of the ridge along the following approximate bearings and distances:

N. 47° W., 670 ft.;

N. 23° W., 420 ft. to the intersection of the 1710 ft. contour and the top of Shuckstack Ridge;

Continuing along the meanders of the top of the ridge along the following approximate bearings and distances;

N. 11° 50' W., 151 ft.;

N. 9° 10' E., 693 ft.;

N. 27° 50' W., 361 ft.;

N. 17° 10' E., 723 ft.;

N. 29° 50' W., 231 ft.;

N. 29° 10' E., 261 ft.;

N. 36° 50' W., 472 ft.;

S. 84° 10' W., 492 ft.;

N. 46° 50' W., 201 ft. to the center of State Highway 288;

Leaving the ridge, by bearings and distances,

N. 65° 34' E., 6666 ft.;

N. 24° 26' W., 5079 ft. to a chestnut stump and an iron pin the coordinates of which are N. 684,647 and E. 576,857;

N. 67° 16' E., 986 ft. to a stake;

N. 76° 01' E., 913 ft. to a point the coordinates of which are N. 685,250 and E. 578,657 in the center of Eagle Creek at the mouth of Lost Cove Branch;

Easterly upstream along the meanders of the center of Eagel Creek 6640 ft., more or less, to the mouth of Pinnacle Creek;

Northeasterly upstream along the meanders of the center of Pinnacle Creek 6500 ft., more or less, to the point of beginning. Except, therefrom, approximately 57 acres, lying within the boundaries of Parcel 1 which were not owned by the North Carolina Exploration Company and were acquired by the Tennessee Valley Authority in the name of the United States of America, the 87 acres being expressly included in this transfer and being described as follow s;

That portion lying above elevation 1710 of the following described tract of land:

Beginning at a 30 in. black oak tree the coordinates of which are N. 656,480 and E. 579, 629.

From the initial point by bearings and distances,

S. 11° 48' E., 276 ft. to a 10 in. dogwood stump;

S. 36° 02' W., 740 ft.;

S. 18° 02' W., 2103 ft. to a 20 in. oak tree from which the hub the coordinates of which are N. 652,942 and E. 579,516 in the boundary of Parcel 1 bears S. 61° 49' E., 1032 ft.;

S. 62° 21' W., 1568 ft., crossing the 1710 ft. contour at 1225, 1400 and 1450 ft., more or less;

S. 39° 51' W., 956 ft.;

N. 30° 51' E., 623 ft., crossing the 1710 ft. contour at 370 ft., more or less;

N. 60° 03' W., 321 ft.;

N. 24° 06' W., 416 ft., crossing the 1710 ft. contour at 260 ft., more or less;

N. 70° 34' E., 130 ft., crossing the 1710 ft. contour at 25 ft., more or less, to the northeast edge of State Highway 298;

S. 62° 38' E., 304 ft.;

N. 30° 15' E., 278 ft.;

S. 63° 22' E., 243 ft.;

N. 30° 51' E., 977 ft.;

N. 48° 51' E., 2708 ft. to the 30 in. black oak tree, the place of beginning.

Parcel 2

Beginning at a chestnut stump the coordinates of which are N. 671,225 and E. 590,773 from which the corner in the boundary of Parcel 1 the coordinates of which are N. 671,306 and E. 588,104 bears N. 88° 13' W., 2530 ft.

From the initial point by bearings and distances,

S. 33° 13' E., 2120 ft.;

S. 6° 35' W., 1331 ft.;

S. 32° 56' E., 993 ft. to a stake the coordinates of which are N. 669,712 and E. 593,735 at the top of Pinnacle Ridge;

Westerly along the meanders of the top of the ridge 4250 ft., more or less, to a point from which the point of beginning bears N. 21° 13' E., 2442 ft.;

N. 21° 13' E., 2442 ft. to the chestnut stump, the place of beginning.

Parcel 3

Beginning at a stake the coordinates of which are N. 667,365 and E. 589,582 at the top of Pinnacle Ridge from which the dead 20 in. chestnut tree (the coordinates of which are N. 669,132 and E. 589,306) in the boundary of Parcel 1 bears N. 12° 17' W., 1297 ft.

From the initial point by bearings and distances,

Southwesterly along the meanders of the top of the ridge 1400 ft., more or less;

S. 70° 57' W., 735 ft.;

S. 39° 03' W., 673 ft. to a stake the coordinates of which are N. 666,234 and E. 587,392 at the top of Pinnacle Ridge;

Southwesterly along the meanders of the top of ridge 2750 ft., more or less, to a 24 in. black oak tree;

N. 47° 46' W., 1312 ft. to a stake;

S. 66° 28' W., 860 ft.;

S. 7° 13' W., 876 ft. to the top of the ridge on the west side of

Eocah Branch;

N. 43° 11' W., 644 ft.;

N. 8° 55' W., 451 ft.;

N. 63° 38' E., 1715 ft., passing a double pine stump at 1435 ft.;

S. 73° 00' E., 540 ft. to a point the coordinates of which are N. 665,960 and E. 585,143;

S. 73° 17' E., 607 ft.;

N. 42° 37' E. 1107 ft.;

N. 74° 43' E., 778 ft.;

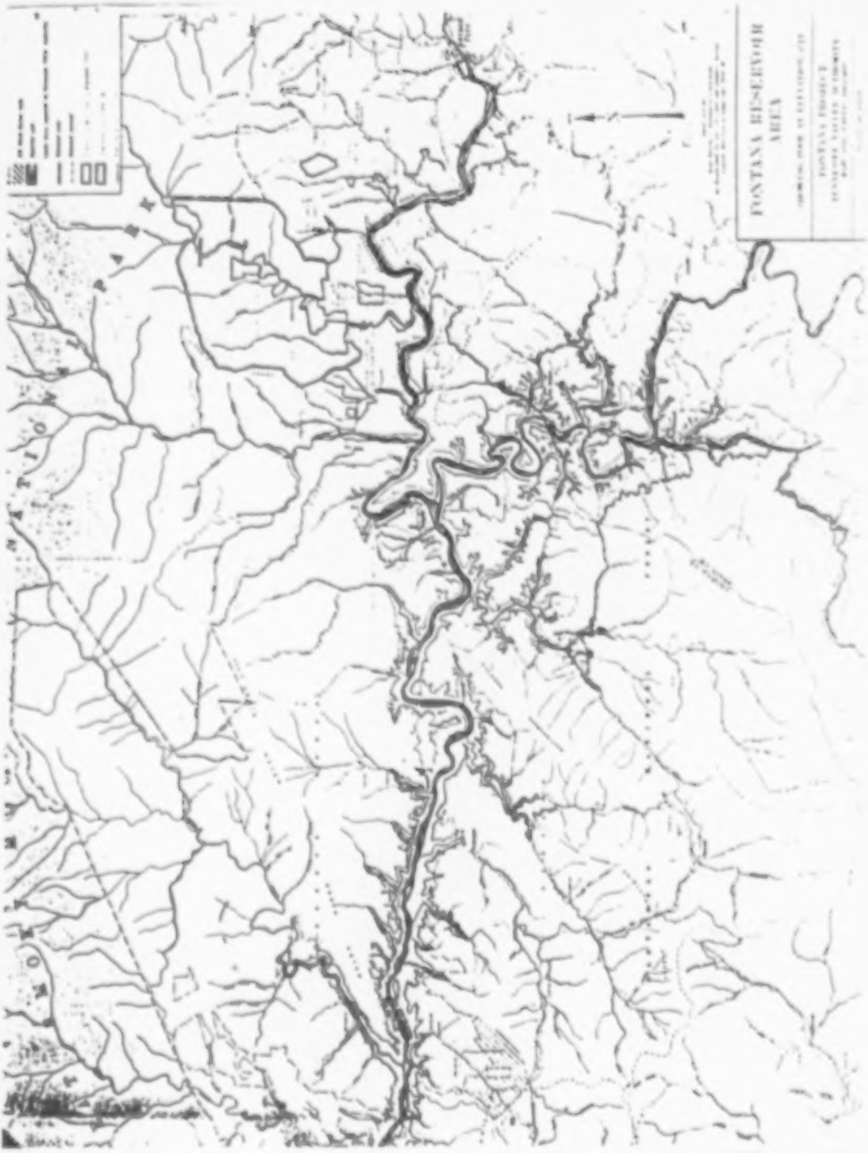
N. 14° 23' W., 604 ft.;

N. 79° 16' E., 2552 ft. to a stake at the top of Pinnacle Ridge, the place of beginning.

ALSO EXCLUDING from the land to be transferred all islands lying in Fontana Lake.

The tract as described contains approximately 44,170 acres.

The positions of corners and directions of lines are referred to the North Carolina State Coordinate System. The elevation is based on Mean Sea Level Datum as established by the U. S. Coast and Geodetic Survey's Southeastern Supplementary Adjustment of 1936. The corners designated "US TVA Corner" above are angle irons witnessed or to be witnessed by fence posts on which the numbers and letters given are stamped.


FONTANA RESERVOIR AREA
FONTANA PROJECT
TENNESSEE VALLEY AUTHORITY

FTR S.2183
S.1947

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1984 [illegible]

March 29, 1984

The Honorable Malcolm Wallop
Russell Senate Office Building
Room 204
Washington, D. C. 20510

Dear Senator Wallop:

I am enclosing a copy of a North Carolina Statute which I believe addresses an issue you raised during the Hearing.

I am also enclosing a copy of a letter from Lawyers Title Insurance Company which I rely on when I am certifying titles in Western North Carolina. Please note that the reference to 50 years is from the date mineral interests are excepted, not from the date the land is acquired by the present title holder; i.e., National Park.

With kindest regards.

Yours truly,

Joseph A. Pachnowski
Swain County Attorney

JAP:dw

Enclosures

GENERAL STATUTES OF NORTH CAROLINA

Chapter 1

Civil Procedure

NOVEMBER 1983

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
Raleigh, North Carolina
November 1, 1983

I, Rufus L. Edmisten, Attorney General of North Carolina, do hereby certify that the attached recompilation of Chapter 1 of the [illegible] North Carolina was prepared and published by [illegible] of the Department of [illegible] North Carolina.

RUFUS L. EDMISTEN
Attorney General of North Carolina

For additional cases as to burden and sufficiency of proof under this section, see Ruffin v. Overby, 105 N.C. 78, 11 S.E. 251 (1890); Bryan v. Spivey, 109 N.C. 57, 13 S.E. 766 (1891); Monk v. Wilmington, 137 N.C. 322, 49 S.E. 345 (1904); Bland v. Beasley, 145 N.C. 168, 58 S.E. 993 (1907); Fraley v. Fraley, 150 N.C. 501, 64 S.E. 381 (1909); State v. McDonald, 152 N.C. 802, 67 S.E. 762 (1910); Steward v. McCormick, 161 N.C. 625, 77 S.E. 761 (1913); Blue Ridge Land Co. v. Floyd, 171 N.C. 543, 88 S.E. 862 (1916); Virginia-Carolina Power Co. v. Taylor, 194 N.C. 231, 139 S.E. 381 (1927).

Where the parties claimed title from a common source, plaintiff's deed being the older but defendant's having been recorded first, and possession for many years was in defendant, there being no evidence of the plaintiff ever having had possession, this section did not apply. Mintz v. Russ, 161 N.C. 538, 77 S.E. 851 (1913).

Claim of Title under Paper Writing more than 30 Years Old. — This section does not declare that one who claims title relying merely on a paper writing more than 30 years old thereby acquires title to the land described in the instrument, nor does it establish title prima facie. Bowers v. Mitchell, 258 N.C. 80, 128 S.E.2d 6 (1962).

Deed as Evidence of Possession. — The offer of a deed dated 1935, together with evidence identifying the land described therein, constituted prima facie evidence of plaintiff's possession of the described lands within the time required by law to maintain an action for the recovery or possession of real property. Woodard v. Marshall, 14 N.C. App. 67, 187 S.E.2d 430 (1972).

Disability Exception Limited to Persons Having Right of Entry or Action. — Adverse possession relates only to the true title; hence, the exceptions in this statute as to those under disability can apply only to one having by virtue of his title a right of entry or of action. Berry v. Lumber Co., 141 N.C. 386, 54 S.E. 278 (1906).

Applied in Johnston v. Pate, 83 N.C. 110 (1880).

Quoted in DeBruhl v. L. Harvey & Son Co., 250 N.C. 161, 108 S.E.2d 469 (1959).

Cited in Monk v. Wilmington, 137 N.C. 322, 49 S.E. 345 (1904); Peterson v. Sucro, 101 F.2d 282 (4th Cir. 1939); Ownbey v. Parkway Properties, Inc., 222 N.C. 54, 21 S.E.2d 900 (1942); Walker v. Story, 253 N.C. 59, 116 S.E.2d 147 (1960).

§ 1-42.1. Certain ancient mineral claims extinguished.

(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, or that the record title holder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of ten (10) years prior to January 1, 1965, any person, having the legal capacity to own land in this State, who has on September 1, 1965 an unbroken chain of title of record to such surface estate of such area of land for fifty (50) years or more, and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interests in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded fifty (50) years or more prior to September 1, 1965, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two (2) years after September 1, 1965, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book therein kept or provided under the terms of G.S., 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) All oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interest must be filed in writing in the manner provided by G.S. 1-42.1(b) and recorded in the local registry in the book provided by G.S. 1-42 within two years from September 1, 1967, to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina. The board of county commissioners shall publish a notice of this subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to September 1, 1967.

The provisions of this subsection shall apply to the following counties: Anson, Buncombe, Durham, Franklin, Guilford, Hoke, Jackson, Montgomery, Person, Richmond, Swain, Transylvania, Union, Wake and Warren. (1965, c. 1072, s. 1; 1967, c. 905.)

Legal Periodicals. — For article, "Transferring North Carolina Real Estate Part I: How the Present System Functions," see 49 N.C.L. Rev. 413 (1971).

§ 1-42.2. Certain additional ancient mineral claims extinguished; oil, gas and mineral interests to be recorded and listed for taxation.

(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, or that the record titleholder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of 10 years prior to January 1, 1971, any person, having the legal capacity to own land in this State, who has on September 1, 1971, an unbroken chain of title of record to such surface estate of such area of land for at least 50 years and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interests in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded at least 50 but not more than 56 years prior to September 1, 1971, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1971, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from November 1, 1971, all oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interest must ~~be filed in writing in the manner~~ provided by G.S. 1-42.2(b) and recorded in the local registry in the book provided by G.S. 1-42, to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina. The board of county commissioners shall publish a notice of this subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to November 1, 1971.

The provisions of this subsection shall apply to the following counties: Rowan, Anson, Buncombe, Catawba, Davidson, Durham, Franklin, Guilford, Haywood, Hoke, Iredell, Jackson, Madison, Montgomery, Moore, Person, Richmond, Robeson, Scotland, Swain, Transylvania, Union, Wake, Warren and Yancey. (1971, c. 235, s. 1; c. 855.)

§ 1-42.3. Additional ancient mineral claims extinguished in certain counties; oil, gas and mineral interests to be recorded and listed for taxation in such counties.

(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, or that the record titleholder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of 10 years prior to January 1, 1974, any person having the legal capacity to own land in this State, who has on September 1, 1974, an unbroken chain of title of record to such surface estate of such area of land for at least 50 years and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interest in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded at least 50 years or more prior to September 1, 1974, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1974, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from November 1, 1974, all oil, gas or mineral interest in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interest must be filed in writing in the manner provided by G.S. 1-42.3(b) and recorded in the local registry in the book provided by G.S. 1-42, to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina. The board of county commissioners shall publish a notice of this subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to November 1, 1974.

The provisions of this subsection shall apply to the following counties: Alleghany, Burke, Caldwell, Cherokee, Clay, Cleveland, Gaston, Gates, Graham, Halifax, Henderson, Macon, McDowell, Mitchell, Polk, Randolph, Stanly, Surry, Watauga, and Wilkes. (1973, c. 1435; 1981, c. 329, s. 2.)

Cross References. — For the section applicable to Avery County, see § 1-42.5.

Effect of Amendments. — The 1981 amendment, effective June 30, 1982, deleted Avery from the list of counties in the second paragraph of subsection (d).

CORNELIA MCK. TROTT
CHAIRMAN OF THE BOARD

N. BRUCE BONEY, JR.
PRESIDENT

JOSEPH M. PARKER, JR.
VICE PRESIDENT AND COUNSEL

F. ALTON RUSSELL
VICE PRESIDENT

Lawyers Title of North Carolina, Inc.
P. O. BOX 71[illegible] 2223 WACHOVIA BLDG. WINSTON-SALEM, N. C. 27102
TELEPHONE (919) 722-9822 N. C. WATS 1-800-642-0484 (0485)

December 4, 1981

Mr. Joseph A. Pachnowski
Attorney at Law
Drawer 849
Bryson City, N. C. 28713

Re: North Carolina General Statutes 1-42.1
Mineral Interest

Dear Joe:

I apologize for the delay in answering your letter of November 20, 1981 in regard to mineral interest in the mountains. I wanted to check with our other offices to make sure I was not contradicting a position we had previously taken.

We have on occasion relied on the 50 year statute as set forth in 1-42.1 (a) & (b). There are further statutes in the new supplement shown as 1-42.1, 1-42.3 and 1-42.4. We have not chosen to rely on subparagraph (d) of these statutes but only on the fact that there has been 50 years of adverse possession without any drilling or mining of mineral rights and also that there has been no preservation of the mineral rights during that period. Of course the facts in the particular situation have some bearing on our decision.

Please let me know if I can be of any further help and feel free to call me on the wats line if you wish to discuss this matter.

Yours very truly,

Joe

Joseph M. Parker, Jr.
Vice President and Counsel

JMP Jr/jm

SPECIAL WARRANTY DEED

Project: Great Smoky Mountains
National Park
Tracts: 16-101, 16-102 and 16-103

THIS DEED, made this 7th day of June, 1983, BY AND BETWEEN CITIES SERVICE COMPANY, a Delaware Corporation, GRANTOR, its successors and assigns, whose principal address is Post Office Box 300, Tulsa, Oklahoma 74102, and the UNITED STATES OF AMERICA, GRANTEE, whose address is Washington, D. C. 20240.

WITNESSETH, that in consideration of the sum of ONE MILLION SEVENTY-FOUR THOUSAND THREE HUNDRED AND NO/100 DOLLARS ($1,074,300.00), in hand paid, the receipt and sufficiency of which are hereby acknowledged, the said GRANTOR does hereby bargain, sell and convey unto the said GRANTEE and its assigns, in fee simple, all of the following land, situate, lying and being in the County of Swain, State of North Carolina, to wit:

Tract No. 16-101

All that certain tract of land, lying in the Great Smoky Mountains, in the County of Swain, in the State of North Carolina, being more particularly described as follows:

Beginning at a chestnut stump marking the northwest corner of the property, said point of beginning being located South 75°57'30" East, 3,291 feet from United States Great Smoky Mountains National Park Monument No. 114, the approximate rectangular coordinates X 590,800 and Y 671,200 of the North Carolina State System of rectangular coordinates as established by the U. S. Coast and Geodetic Survey, central meridian at Longitude 79°00' West;

thence South 88°13' East, 2,180 feet;
thence South 06°35' West, 1,331 feet;
thence South 82°55' East, 993 feet to a point on top of Pinnacle Ridge; thence with the center line of the top of said ridge in a southwesterly direction 2,250 feet, more or less to a stake; thence North 21°18' West, 2,442 feet to the beginning.

The land herein described contains 80.00 acres, more or less, as shown on TVA Map No. 19MS421K504-33.

AND

Tract 16-102

All that certain tract of land, lying in the Great Smoky Mountains, in the County of Swain, in the State of North Carolina, being more particularly described as follows:

Beginning at a stake on the top of Pinnacle Ridge, marking the extreme east corner of the property, said point of beginning being located South 25°36'40" East, 4618.6 feet from United States Great Smoky Mountains National Park Monument No. 114, thence with the meanders of said ridge Southwestward 1400 feet, more or less; thence South 70°57' West, 735 feet, thence South 39°08' West, 678 feet to the top of Pinnacle Ridge; thence down with meanders of the top of the ridge 2750 feet, more or less, thence leaving the ridge,

North 47°46' West, 1312 feet,
South 66°25' West, 860 feet,
South 07°13' West, 876 feet,
North 48°11' West, 644 feet,
North 08°55' West, 451 feet,
North 63°38' East, 1435 feet,
North 63°33' East, 280 feet,
South 73°00' East, 540 feet,
South 73°17' East, 607 feet,
North 42°37' East, 1107 feet,
North 74°43' East, 778 feet,
North 14°23' West, 604 feet,

GREAT SMOKY MTS. NP DEED NO. 167

SWAIN COUNTY
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North 79°16' East, 2552 feet to the point of beginning.

The land herein described contains 94.00 acres, more or less, as shown on TVA Map No. 19MS421K504-33.

AND

Tract 16-103

PARCEL NO. 1

All that certain tract of land situate lying and being in the Great Smoky Mountains, in the County of Swain, in the State of North Carolina, being more particularly described as follows:

Beginning at a point on the south side of what was once the Carolina and Tennessee Railroad right-of-way, said point being South 35°07'40" West, 22,577 feet from United States Great Smoky Mountains National Park Monument No. 114; thence with said right-of-way, in an easterly direction, approximately 2200 feet:

Thence South 35°15' West, 50 feet,
South 54°45' East, 100 feet,
South 26°00' West, 210 feet to the middle of the Little Tennessee River; thence downstream with the middle of Little Tennessee River in a westerly direction approximately 2210 feet:

Thence North 16°00' East, 210 feet,
North 19°00' West, 35 feet to the point of beginning.

Containing 13 acres, more or less, of which all is located under the 1722.63 foot contour line.

PARCEL NO. 2

Beginning at a point in the center of Pinnacle Creek, said point being South 2°56' West, 503 feet from United States Great Smoky Mountains National Park Monument No. 114

Thence South 02°56' West, 196 feet,
South 63°13' East, 650 feet,
South 27°05' East, 2442 feet,
South 75°58' West, 3178 feet,
South 53°55' West, 523 feet,
South 75°58' West, 1659 feet,
South 32°21' West, 368 feet,
South 28°49' West, 409 feet,
South 25°18' West, 1116 feet,
South 81°48' West, 688 feet,
South 06°46' West, 642 feet,
South 04°17' West, 1876 feet,
South 50°48' West, 1139 feet, to an iron pin,
South 28°18' East, 578 feet, to an iron pin,
North 69°01' East, 2126 feet,
North 27°27' East, 1009 feet,
North 78°06' East, 1160 feet,
South 06°01' West, 1671 feet,
South 85°59' East, 767 feet to a 36-inch oak on the top of a ridge; thence with the centerline of the top of the ridge the following bearings and distances:

South 23°00' West, 570 feet,
South 16°00' East, 870 feet,
North 86°00' West, 770 feet,
South 69°00' West, 800 feet,
South 40°00' West, 620 feet,
South 44°00' West, 350 feet,
North 89°00' West, 1130 feet,
South 23°00' West, 420 feet,
South 62°00' West, 320 feet,
South 33°00' West, 400 feet,
thence continuing with centerline of top of ridge
South 74°00' West, 260 feet,

South 29°00' West, 560 feet,
thence due South 750 feet, thence
South 05°30' West, 1060 feet,
South 75°00' West, 590 feet,
South 03°00' West, 1830 feet,
South 46°00' West, 400 feet,
South 38°00' West, 515 feet,
South 51°00' West, 370 feet,
South 40°00' West, 360 feet,
South 42°00' West, 200 feet,
South 03°00' East, 350 feet,
South 02°30' West, 300 feet,
thence leaving the top of the ridge
South 54°19' West, 2136 feet to a pipe,
North 53°12' West, 1063 feet,
North 53°12' West, 21 feet to a pipe
in the center of Myers Branch, thence in a southwesterly direction with the center of Myers Branch 160 feet, more or less to a pipe beside a 13-inch buckeye oak:

Thence North 86°46' West, 244 feet,
South 35°15' West, 70 feet to what was the
north boundary of the Carolina and Tennessee Southern Railroad Company right-of-way; thence in a northwesterly direction with said right-of-way 2390 feet more or less;

Thence North 19°00' West, 215 feet,
North 64°00' West, 90 feet to a point on the
top of a ridge; thence with the centerline of the top of the ridge the following bearings and distances:

North 47°00' West, 670 feet,
North 23°00' West, 460 feet,
North 12°00' West, 100 feet,
North 09°00' East, 690 feet,
North 28°00' West, 360 feet,
North 17°00' East, 720 feet,
North 30°00' West, 250 feet,
North 29°00' East, 260 feet,
North 37°00' West, 470 feet,
South 84°00' West, 490 feet,
North 46°00' West, 200 feet, to a point on
North Carolina State Highway No. 288; thence leaving the top of the ridge North 65°34' East, 6666 feet,

Thence North 24°26' West, 5079 feet to an iron pin
beside a chestnut stump; thence
North 67°16' East, 986 feet,
North 76°01' East, 918 feet,
to the center of Eagle Creek; thence upstream in a northerly direction with the center of Eagle Creek approximately 6640 feet to the mouth of Pinnacle Creek; thence upstream with the center of Pinnacle Creek in a northeasterly direction approximately 6500 feet to a marked line: thence with said marked line North 68°54' East, 440 feet to the center of Pinnacle Creek; thence upstream with the center of Pinnacle Creek approximately 560 feet to a marked line; thence with said marked line North 68°54' East, 140 feet to the center of Pinnacle Creek; thence upstream with the center of Pinnacle Creek approximately 1560 feet to the point of beginning.

There is excepted from the real property above described as Parcel No. 2 two tracts of land, exceptions No. 1 and No. 2, described as follows:

Exception No. 1 A tract of land lying in Forneys Creek township, Swain County, North Carolina, on the Little Tennessee River, approximately 1 1/2 miles east of the Fontana Dam, more particularly described as follows:

Beginning at a 30-inch black oak tree, being the most northerly point of the tract herein above described; thence with the line of the same along the following bearings and distances:

South 11°45' East, 276 feet,
South 36°02' West, 740 feet,
South 15°02' West, 2103 feet,

South 52°21' West, 1568 feet,
South 83°51' West, 956 feet,
North 30°51' East, 623 feet to a point, a corner of the land herein above conveyed, being the land in dispute between the W. L. Myers Heirs and the party of the first part, and the land of Prudie Tipton et vir; thence with Prudie Tipton's line South 23°12' East, 178 feet to an 8-inch white oak tree at the top of a ridge; thence with the top of the ridge as it meanders approximately along the following bearings and distances:

North 19°00' East, 275 feet,
North 70°00' East, 320 feet to a 12-inch post oak tree; thence leaving the ridge, along the following bearings and distances:

North 37°00' East, 530 feet,
North 03°20' West, 555 feet to a point, a corner of the lands of Prudie Tipton et vir, and the party of the first part; thence with the line of the land conveyed above along the following bearings and distances:

North 30°51' East, 301 feet,
North 45°51' East, 2708 feet to the point of beginning. Being those lands denoted as FR-443 on and as shown on TVA Map No. 19 MS421K504-2

Exception No. 2 A tract of land lying in Forneys Creek Township of Swain County, State of North Carolina on the right side of the Little Tennessee River, approximately 1 1/2 miles east of the Fontana Dam, and more particularly described as follows:

Beginning at an 8-inch white oak tree at the top of a ridge, a corner of the land of Martha J. Myers, and the most southerly point of the tract herein described; thence with the Martha J. Myers line North 23°12' West, 178 feet to a point, a corner of the land of Martha J. Myers, and the land claimed by the party of the first part; thence with the line claimed by the said party of the first part as its boundary line North 30°51' East, 1376 feet, thence with the Martha J. Myers line

South 03°20' East, 555 feet,
South 37°00' West, 530 feet to a 12-inch post oak tree at the top of a ridge; thence with the top of the ridge as it meanders approximately along the following bearings and distances:

South 70°00' West, 320 feet,
South 19°00' West, 275 feet to the point of beginning. Being those lands denoted as FR-1265 on and as shown on TVA Map No. 19 MS421K504-2.

The above described Parcel No. 2 after exceptions contains a total of 2156.70 acres, more or less, of which 386.00 acres, more or less are below the contour interval of 1722.63 feet.

Tract 16-103 is shown on TVA Maps Nos. 19MS421K504-2, 19MSK421K504-3 and 19MS421504-33 as parcels FR-442F and FR1266.

The above tracts contain a total of 2,343.70 acres.

The above described land is being acquired for the use and benefit of the National Park Service of the Department of the Interior.

The GRANTOR releases and quitclaims unto the GRANTEE and its assigns all right, title and interest which the GRANTOR may have in and to any alleys, streets, ways, strips and gores abutting or adjoining said lands.

SUBJECT, HOWEVER, to the following rights outstanding in third parties: existing easements for public roads and highways, public utilities, railroads and pipelines.

ALSO SUBJECT to flowage easement recorded in Deed Book 67, page 391.

TO HAVE AND TO HOLD the premises herein bargained, sold and conveyed and all privileges and appurtenances thereunto belonging to the GRANTEE and its assigns forever.

AND SAID GRANTOR, its successors and assigns, does hereby covenant that GRANTOR has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through GRANTOR.

IN WITNESS WHEREOF, the said GRANTOR has caused its corporate seal to be signed in its name by R. D. Dillsaver its duly authorized Sr. Vice President and the same to be duly attested by Lewis J. Haines its Asst. Secretary, the day, month and year first above written.

Signed, Sealed and Delivered
In Our Presence:

Cities Service Company (SEAL)
a Delaware Corporation

Teres M. Stinson
WITNESS Teres M. Stinson

By: R. D. Dillsaver (SEAL)
SR. ~~VICE~~ PRESIDENT
R. D. Dillsaver

Attest: Lewis J. Haines (SEAL)
ASST. SECRETARY

STATE OF OKLAHOMA)
) SS:
COUNTY OF TULSA)

This is to certify that on the 7th day of June, 1983, before me personally came R. D. Dillsaver, Lewis J. Haines, with whom I am personally acquainted, who, being by me duly sworn, says that R. D. Dillsaver is the Sr. Vice President and Lewis J. Haines is the Asst. Secretary of the Cities Service Company, the company described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the company was subscribed thereto by the said Asst. Secretary, and that said R. D. Dillsaver and Lewis J. Haines subscribed their names thereto, and said common seal was affixed, all by order of the board of directors of said company, and that the said instrument is the act and deed of said company.

Witness my hand and official seal, this 7th day of June, 1983.

H. Jeannine Caldwell (SEAL)
Notary Public H. Jeannine Caldwell

My Commission Expires: December 8, 1983

STATE OF NORTH CAROLINA
COUNTY OF SWAIN
Each of the foregoing certificate, or certificates, namely of H. Jeannine Caldwell
a Notary or Notaries Public of the County and State designated is certified to be correct and filed for registration on the 9 day of June 19 83 in book 140 at page 474 at 2:56 O'Clock A.M.
MAGGIE M. WARREN, REGISTER OF DEEDS
BY: Maggie Warren
Assistant

A Resolution in Support of Legislative Efforts to Protect the Biota of the Great Smoky Mountains National Park through Designation of Wilderness therein

WHEREAS, Great Smoky Mountains National Park is extraordinarily rich in species and diverse in communities, is among the largest tracts of landscape in the eastern United States where the direct and indirect influences of man are least evident, was among the first group of UNESCO Biosphere Reserves to be set aside, has recently been designated a World Heritage Site, has provided educational and research opportunities for several generations of biologists and, with adequate protection and management stands to continue to do so, and is otherwise superlative and of wilderness quality and

WHEREAS, efforts to protect the park's wilderness against incursive and disruptive activities have continued for more than 50 years and

WHEREAS, the General Management Plan of 1982 for Great Smoky Mountains National Park as approved by the National Park Service and the U. S. Department of Interior includes 467,000 acres designated Natural Environment--Type I, which acres have been managed as wilderness and

WHEREAS, Legislative measures sponsored by Senators Jim Sasser and Albert Gore, Jr., of Tennessee and Terry Sanford of North Carolina in the Senate (S. 693) and Representatives James Clark of North Carolina and John Duncan of Tennessee and cosponsored by others of the North Carolina and Tennessee congressional delegations (H. R. 1495) would contribute to protection of the biota of the Smokies by designating 467,000 acres of the Park as wilderness,

NOW, THEREFORE, BE IT RESOLVED that the Southern Appalachian Botanical Club, an organization of more than 500 members, endorses the efforts of the above-named and referenced United States Congresspersons to provide protection to the wilderness of Great Smoky Mountains and included biota under the terms of the Wilderness Act of 1964 and in other such ways as exemplified in the terms of bills H. R. 1495 and S. 693.

BE IT FURTHER RESOLVED that the efforts of the sponsoring and cosponsoring congresspersons to provide legislative protection to the significant wilderness of Great Smoky Mountains National Park and its included biota are appreciated by the Southern Appalachian Botanical Club.

BE IT FINALLY RESOLVED that copies of this resolution of support and appreciation be transmitted to sponsors and cosponsors of S. 693 and H. R. 1495, to the Superintendent of Great Smoky Mountains National Park, to the Director of the Southeastern Region of the National Park Service, to the Director of the National Park Service, and to the Secretary of the U. S. Department of Interior.

PROPOSED LEGISLATIVE HISTORY IF TVA TRANSFER AREA IS DESIGNATED AS WILDERNESS

Section 3 permits the Tennessee Valley Authority to continue without impairment its flood control, navigation, monitoring, and power generation and transmission activities in and adjacent to the park. These activities are primarily confined to the south and southwestern edge of the park. The most important of these activities is the transmission link with Fontana Dam, one of the largest hydroelectric projects in the eastern United States, and nearby dams, including, among others, Calderwood and Cheoah Dams that are owned by a subsidiary of the Aluminum Company of America, the power from which is dispatched on the TVA system. These transmission lines also provide the only major transmission link for delivery of electricity to persons living in a multicounty, mountainous area of western North Carolina.

These transmission lines are inspected periodically by way of foot, vehicle, or small aircraft; are maintained on a regular basis; and are repaired, reconductored, restructured, or otherwise improved on an as-needed basis. Maintenance includes the control of vegetation and trees in the area near the line; the application of herbicides by helicopter, work crew, or ground vehicle subject to approval of park officials; the removal of trees or limbs which may endanger the line, and the use of mechanical equipment (including heavy equipment on occasion). Most of this activity is performed by or on behalf of TVA, but ALCOA's subsidiary does perform some as well. Section 3 permits all these activities to continue and requires the Secretary of the Interior to convey a permanent easement and right-of-way for these lines (no easement is necessary for the Cheoah line, which runs only adjacent to the park boundary). This section also permits lateral access to these transmission lines over surrounding park lands. Such access should be over existing roads and trails where practicable. The committee expects TVA to continue its practice of coordinating these activities and access points with park officials in order to minimize environmental impacts.

In 1948, TVA transferred to the Department of the Interior a 44,000-acre tract north of Fontana Dam and Reservoir for inclusion in the park. Under the Agreement of Transfer dated March 31, 1948, TVA retained extensive rights to carry out a variety of activities anywhere in the transfer area. Section 3 directs TVA to transfer to the Secretary all rights retained by it except those property rights necessary to carry out the activities described in subsection (b). This section ensures that TVA can continue to carry out these activities. However, the installation, maintenance, and operation of monitoring instruments will be permitted in the park at locations and under conditions established by park officials.

S. 693/H.R. 1495
PROPOSED AMENDMENT IF TVA TRANSFER AREA IS DESIGNATED AS WILDERNESS

Include the following section in the bill:

SEC. 3. (a) The Secretary of the Interior and the Tennessee Valley Authority are authorized and directed to enter into an agreement which provides for (1) the Authority to transfer to the Secretary all rights retained by the Authority in a tract of land comprising approximately forty-four thousand acres formerly entrusted to it and transferred to the Secretary by an Agreement of Transfer dated March 31, 1948, saving and except those property rights necessary to carry out the activities described in subsection (b), and (2) the Secretary to transfer to the Authority the property rights necessary to carry out the activities described in subsection (b)(2) which involve lands outside such tract. Such agreement, as amended, shall have the same force and effect as if included in this Act.

(b) Nothing in this Act or the Wilderness Act shall prevent or impair, within or adjacent to the wilderness area designated by this Act, activities undertaken by, on behalf of, or in cooperation with the Authority in exercise of the following rights to--

(1) operate and maintain Fontana Dam and Reservation;

(2) operate and maintain the electric power transmission lines and rights-of-way which run west and northwest from Fontana Dam and which run north and northwest from Calderwood Dam;

(3) have lateral access to such transmission lines and rights-of-way from the area of the park south and west of the rights-of-way;

(4) raise the water level of the Fontana Reservoir to the probable maximum flood level for flood control operations and to have access to the area below that elevation at all times;

(5) install, maintain, and operate gauges to measure streamflow and rainfall and collect hydrometeorological, air quality, and other information; and

(6) install and maintain navigation markers along the north shore of Fontana Reservoir.

On October 8, 1943, parties representing the Department of the Interior, the Tennessee Valley Authority, the State of North Carolina, and Swain County, North Carolina, signed a contract known as the 1943 Agreement. (Attachment) This contract, by a series of "mutual covenants and agreements," provided in essence that (1) some 44,000 acres of land acquired by TVA for the development of Fontana Dam and Reservoir be added to the Great Smoky Mountains National Park; that (2) TVA would pay the sum of $400,000 to Swain County through the State Treasury of North Carolina in payment of outstanding bond indebtedness on State Highway #288, which was to be submerged by the waters of Fontana Lake; that (3) the State of North Carolina would construct a road commencing in Bryson City, North Carolina, and extending to a point on the eastern boundary of the National Park (as chosen by the Department of Interior) to connect with the park road (or North Shore Road, as it came to be called); and that (4) in return for this 44,000 acres of Swain County lands, as well as for the submerged state highway within Swain County, the National Park Service would build 34 miles of roadway along the north shore of Fontana Lake within the National Park from near Bryson City to Deal's Gap. (Attachment: Map of NSR)

TVA and the State of North Carolina proceeded to fulfill their portions of the "mutual covenants and promises" of the 1943 contract. TVA transferred the 44,000 acres of Swain County lands to the National Park and paid $400,000 to Swain County in relief of the bonded indebtedness on State Highway #288. The State of North Carolina constructed a 2.67 mile section of paved road from Bryson City to the National Park's eastern boundary.

But the 34 mile North Shore Road stipulated in the 1943 Agreement has never been built. During the 27 year period from 1943 to 1970, 6.43 miles (including a short segment of less than a mile at Fontana Dam and a 1,200 foot tunnel near Bryson City) were constructed at a cost of $4,109,544. (Attachment: Map of Road Sections, Dates of Construction and Cost) Now, 41 years later, these few miles of deadend roadway represent the only tangible evidence of the federal government's intention to fulfill their obligation to a mountain county in rural Appalachia. These roads lead nowhere and serve no real purpose except as daily reminders of broken "covenants and promises." In essence, the government still stands in moral default.

To their credit, however, the ongoing administrations of the Department of the Interior and the Great Smoky Mountains National Park have remained over the years more or less "committed" to obtaining some "just solution" of the matter. This Senate hearing represents one more step in the ongoing attempt to reach such a solution. Hopefully, we can see the light at the end of what has been a long tunnel indeed. Let me summarize for you the complex and at times disheartening series of events which has brought us to where we are today.

In 1965 an amendment was proposed to the 1943 Agreement which substituted a 34.7 mile transmountain road for the North Shore Road. This Transmountain Road would have connected Townsend, Tennessee with Bryson City, using the north shore route from the eastern boundary as far as Forney Creek, at which point the road would have gone north over the North Carolina and Tennessee state line to Townsend. (Attachment: Map) North Carolina and Swain County agreed to the amendment.

Secretary of the Interior Udall announced in 1967 that he had decided not to approve the Transmountain Road for environmental reasons. Then, Interior Secretaries Hickel and Morton in turn directed the National Park Service to analyze the situation and prepare a report. In 1971 such a report was issued under the title TRANSPORTATION CONCEPTS: GREAT SMOKY MOUNTAINS. (Attachment: 1971 report) Therein were outlined those "possible solutions" to the 1943 Agreement proposed by various groups and agencies prior to 1971. In addition to the original North Shore Road proposal and the Transmountain Road amendment, seven other considerations were listed. The National Park Service itself made two new proposals, one of which was a system of highways encircling the National Park which utilized approximately 9 miles of the old North Shore Road route, but at the same time proposing that Route 441 over the Smokies connecting Cherokee, North Carolina, and Gatlinburg, Tennessee would eventually "be obliterated and returned to its natural state." In the 1971 report, George B. Herzog, Jr., Director of the National Park Service, endorsed this concept. But the proposal, especially the phasing out of Route 441 -- the sole connecting link over the Smokies between North Carolina and Tennessee -- was vigorously opposed by local and state leaders in both states.

Very little progress in any regard was made for the next four years. However, at meetings held during the spring of 1975 involving the North Carolina Department of Natural and Economic Resources, the National Park Service, TVA, Swain County, and various wilderness protection groups began to evolve points upon which the various parties might agree and effect a settlement. As this approach progressed, it gradually substituted certain considerations (including a cash settlement) in lieu of completion of either the North Shore Road or the Transmountain Road. (Attachment: Original 10 Point Proposal) But during the next two years little progress was made in actually implementing such negotiations.

Then, at the behest of North Carolina Congressman Lamar Gudger, Secretary of the Interior Cecil Andrus visited Swain County in August of 1978 to "listen and learn." In October of that same year, Secretary Andrus called for a six-member committee to re-study the 1943 Agreement. Accordingly, the Fontana Agreement Committee met in Waynesville, North Carolina on several occasions in early 1979. By that spring, the negotiations had evolved a "Twelve Point Proposal," with Swain County maintaining that "a cash settlement -- substantially in excess of $10 million" (in addition to other considerations) be a part of the final agreement.

Negotiations along these lines continued as a basis for possible settlement. In 1980 the value of the old State Highway #288 (by then submerged for 37 years) was established at $1,300,000; this, compounded annually from 1943 to 1980 at a rate of 5%, yielded a total of $9,609,582. (Attachment) Secretary Andrus, who had insisted on what he termed a reasonable cash settlement, endorsed this settlement figure on November 28, 1980, and signed a document to this effect. (Attachment)

A House bill introduced by Congressman Gudger in late 1980 would have provided a $9.5 million cash settlement and cancelled a $3.2 million Farmers Home Administration loan to Swain County. The bill passed the House but Congress adjourned before it could be acted upon in the Senate.

Now, nearly four years later, we are trying once again to piece together legislation to solve a problem that is 41 years old. 41 years is a long time. It represents well over a third of the time that Swain County has even been in existence. Over 65% of our people were not even born when the 1943 Agreement was signed. Through the years this unresolved situation has been the major issue with which our people have grappled. Let me summarize for you from Swain County's perspective.

In 1943 we thought we entered an agreement which held out hope and promise for our people. Had the North Shore Road (or its equivalent) become a reality, it was reasonably expected that a flourishing tourist trade would have resulted.

Indeed, the 1943 Agreement was heralded in the press as the beginning of a new era, with a solemn prediction that Bryson City would become the "tourist capitol of the Eastern United States." (Attachment: Citizen Clipping) This was no pipedream. We only have to look over the mountains toward Gatlinburg to see what a road across the Smokies means economically.

In the 1940's the following negative economic effects were immediately sustained by Swain County: (1) Over 600 persons living in the six settlements of Fontana, Bushnell, Japan, Forney, Judson and Almond had to be relocated and the settlements abandoned; (2) 496 tracts, or parts thereof, in three townships (Charleston, Nantahala and Forney Creek) were lost, resulting in a tax evaluation loss of $689,431.65; (3) TVA relocated the main line of the Southern Railway from Bryson City to Wesser, North Carolina, and in doing so cut the length of the road by eight and one-half miles, which (at an evaluation of $57,000 per mile) cost Swain County $484,500; and (4) a thriving lumber industry and related businesses and activities were forced to shut down by creation of the National Park and development of the Fontana Dam Project. (Attachment: Material from ECONOMIC IMPACT OF FEDERAL ACQUISITION OF REAL PROPERTY IN SWAIN COUNTY)

In addition, within the flooded regions of Fontana Lake or the lands ceded to the National Park, schools within the three townships were lost, with the students relocated. (Attachment: Material from 1937 SOIL SURVEY MAP and Thomasson's HISTORY)

The cash settlement of $9.5 million and forgiveness of the Farmer's Home Administration bonded indebtedness in lieu of the road construction originally contracted under the 1943 Agreement will allow Swain County to lift itself economically and provide the services our citizens are 41 years past due.

But let me emphasize that this issue long ago went beyond mere monetary or material concerns. We must be assured of permanent access to the cemeteries of ancestors. Transportation across Fontana Lake and suitable transportation on existing roads and trails must be available. The "nonpublic use roads" must be maintained. Cemetery maintenance assistance on the part of the National Park is essential.

This long unresolved issue has traumatized and divided our people. Our sons and daughters are frequently separated from us because to find a livelihood they have been forced to leave the one place in the world they want to be. Our relationship with the Great Smoky Mountains National Park has not always been the one of neighborliness and mutual cooperation we desire. The U. S. government needs to settle this affair in order to square itself equitably and morally with a rural county in far Appalachia. We won't give up in any event, but Swain County needs to get the matter settled, too -- for its economic health and its spiritual well-being. 41 years is long enough. Let's close the book on the 1943 Agreement.

ECONOMIC IMPACT OF FEDERAL ACQUISITION OF REAL PROPERTY IN SWAIN COUNTY, NORTH CAROLINA

Swain County
Swain County Board of Commissioners
P.O. Drawer A
Bryson City, North Carolina 28713

1979

INTRODUCTION

It is not the purpose of this report to dwell on "what might have been" had the Federal Government fulfilled its solem obligation undertaken in 1943 to provide a "North Shore Road" along the Fontana Lake between Bryson City and the East Tennessee border. It is regrettable that, when the obligation was confirmed and formally renewed in 1965 promising a "Transmountain Road" between Bryson City and Townsend, Tennessee and the Blue Ridge Parkway extension to Deep Creek just north of Bryson City, the Federal Government's obligation to provide these capital assets was not fulfilled. Had either of these events come to pass, it would have been expected that a flourishing tourist trade resulting from these new roads would ahve largely made up for the shock in building Fontana Dan and in taking such a large portion of the county for national park purposes. Indeed, the 1943 agreement calling for a replacement North Shore Road for highway NC-288 inundated by Fontana Lake was heralded in the local press as a beginning of a new era with a solemn prediction that Bryson City would become the "tourist capital of Eastern United States.

The new era never came to pass. Bryson City has watched Gatlinburg, Tennessee, the northern US-441 entry into the Great Smoky Mountain National Park become much more a tourist metropolis and convention center than any city of Western North Carolina. Now, in 1980, it is timely to review some of the results of the transfer of title to TVA and the National Park Service of such a large portion of a mountain country consisting of roughly 530 square miles.

Brief Description of Swain County Emphasizing the Federal Acquisition of Property

Swain County is located in the rugged, mountainous Appalachian area of Southwestern North Carolina. Swain County was created by an act of the North Carolina legislature in 1871. The site chosen for the county seat on the south shore of the Tuchaseigee River had originally been the Cherokee town of Coyyawa and became the county seat of Charleston in 1887. In 1889 the name was changed to Bryson City in honor of Colonel Thaddeus Bryson. Swain County consists of 350 square miles (or 339,200 acres) of steep slopes, narrow valleys and great natural beauty. Swain County's natural beauty, while perhaps being its greatest asset, has also been its greatest liability as more fully described below. Because of its unparallelled natural beauty, timber resources, etc., eighty two percent of Swain County is now owned or held in trust by various agencies of the federal government.

The history of Swain County is inextricably interwoven with that of the Cherokee Indian who lived in Western North Carolina, Tennessee and other southeastern states centuries before the first white settlers came to Swain County about the start of the nineteenth century. However, the Treaty of New Echota in 1835 provided for the forced removal of thousands of Cherokees to west of the Mississippi and the relinquishing of their possessory land rights. Against the terms of the Treaty, approximately 1,000 Indians remained in Western North Carolina and with assistance from white settlers were able to purchase back over fifty-thousand acres of land for the formation of the Qualla Indian Boundary. Approximately 29,400 of the 56,572 acres which make up the Qualla Indian Boundary are within Swain County; the remaining Qualla Indian Boundary lands are found in the surrounding counties of Jackson, Graham and Cherokee (see Attachment 1, maps for location of Qualla Boundary lands in Swain County).

In 1924 the Congress of the United States authorized the Eastern Band of Cherokees to convey their lands to hold for them in trust. With the actual conveyance taking place in 1925, legal title to all the land on the Qualla Boundary was transferred to the United States in trust for the Eastern Band of Cherokees. Until the land title transfer in 1925, Swain County assessed and collected ad valorem tax revenues from land owners on the Boundary. However, with the title to the land now vested in the United States, Swain County could no longer levy real property taxes on Boundary lands. The loss to Swain County in terms of valuation for taxation of the Boundary real property was $302,176, in 1926 dollars. Swain County has still attempted to levy taxes on the personal property of residents of the Swain County portion of the Indian boundary with the results outlined below under "The Financial State of the Swain County Government."

Great Smoky Mountains National Park

In order to preserve the unspoiled wilderness beauty, creation of the Great Smoky Mountains National Park from portions of Swain County and adjoining counties in western North Carolina and eastern Tennessee was authorized by an act of Congress in 1926. The state of North Carolina acted as an agent for the federal government in the purchase of North Carolina lands for the Park. No tax money was spent on the purchase of property for the National Park; rather the citizens of North Carolina and Tennessee donated private funds which were matched dollar for dollar by the Rockefeller Foundation. Much of the land was condemned not sold willingly by the owners. Acquisition of the property from three townships in Swain County took place between 1928 and 1931 and resulted in a net loss of property valuation of $1,589,367.31 (see Attachment 2, Statement Showing Decrease in Total Property Valuation for Taxation in Swain County 1928-31). With acreage purchased by the Tennessee Valley Authority (outlined below) and transferred to the National Park Service, eventually 214,300 acres (or 63% of all the land in the county) became part of the Great Smoky Mountains National Park.

Tennessee Valley Authority (TVA) - Fontana Project

As a part of TVA's unified development of the Tennessee River, construction of the Fontana Great Dam Project in Swain County began on January 1, 1942. While the project has provided flood control for and generated hydroelectricity to be utilized by eastern Tennessee, its negative effects on Swain County are still being felt. First, over 68,000 acres of land were acquired for all purposes in relation to the Fontana Project and lost from Swain County's tax rolls. About 9,700 acres, 14.5% of the total, was cleared land, most of which was agricultural lands farmed by relatively small operators. A major portion of North Carolina State Highway No. 288 leading from Bryson City to eastern Tennessee was submerged when the reservoir was filled, and at that time it was estimated to cost at least $1,700,000 to build a road of the same character above reservoir level.

In recognition of the loss of productive farmlands, the loss of a major road, and in acknowledgement that approximately 43,000 acres of Swain County land (which were not flooded but rendered inaccessible by the flooding of North Carolina Highway 288) purchased by TVA from private owners and transferred to the National Park Service, the "1943 Agreement" was entered into by the affected parties. The contract signed by the Tennessee Valley Authority, the U. S. Department of Interior (National Park Service), the State of North Carolina and Swain County provided, in part, as follows:[1]

(1) the Tennessee Valley Authority would purchase the 43,000 acres mentioned above and transfer them to the National Park Service.

(2) TVA and the State of North Carolina would pay to Swain County the market value of outstanding bonds against North Carolina State Highway No. 288[2].

(3) when funds became available, the Department of Interior, as part of its Master Plan, would construct an "around the Park" road which would include the "North Shore" Road as a replacement for the inundated North Carolina Highway 288, following the Northern Shore of Fontana Lake from Bryson City to the eastern Tennessee border.

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[1] A complete copy of the 1943 Agreement and the 1965 amendment to the Agreement are available for review if desired.

[2] North Carolina State Highway No. 288 was built in the early 1920's by the Forney Creek Road District from the proceeds of bond issues totalling $600,000. In August, 1940 Swain County assumed the outstanding principal of $456,000, together with accrued interest of $235,000. According to a former Swain County official, $400,000 was transferred from TVA to the State of North Carolina but not used to pay off the road bonds. Swain County made final payment in 1975 for the road which had been submerged for over 30 years. A copy of the final payment instrument is contained in Attachment 3.

The U. S. government's failure to live up to its part of the agreement is outlined elsewhere below. However, as a result of the federal Fontana project, the following negative effects have been borne by Swain County:

(1) Over 600 persons living in the settlement of Fontana, Bushnell, Japan, Forney, Judson and Almond had to be relocated with completion of the dam.

(2) A check of the tax records for 1942-1945 revealed that 496 tracts or parts thereof in three townships were taken resulting in a tax valuation loss of

Charleston Township (45 tracts or parts thereof)	$ 41,055.00
Nantahala Township (61 tracts or parts thereof)	84,853.50
Forney Creek Township (390 tracts or parts thereof)	563,523.15
	$689,431.65

(3) In addition to the foregoing figure, TVA relocated the main line of the Asheville-Murphy Branch of the Southern Railway from Bryson City, North Carolina to Wesser, North Carolina and in said relocation cut the length of the road through Swain County by eight and one-half miles. The railroad was listed for taxes upon a valuation of $57,000.00 per mile. This loss, therefore, amounts to $484,500.00. This figure added to the foregoing loss amounts to:

$ 689,431.65
484,500.00

$ 1,173,931.65

(4) A thriving lumber industry and related businesses and activities were forced to shut down by creation of the Great Smoky Mountains National Park and development of the Fontana Dam Project.

(5) Hundreds of Swain County families were cut off from cemeteries where their loved ones had been buried. Road access to these cemeteries was almost completely eliminated. Persons wishing to visit many family cemeteries must do so by boat across Fontana Lake and can do so only during certain times of the year.

Nantahala National Forests

The United States Forest Service, over a period of several decades, has acquired approximately 21,200 acres of land in Swain County as part of the Nantahala National Forest. It was not possible to locate the old tax records showing the actual loss to the county in valuation due to the taking of these lands, with one exception. Attachment 4 contains a "Summary Statement Showing Total Valuation of Property for Taxes in Swain

County For Each Year 1922-58 and 1968-77, Inclusive." Effective in 1972, 6,000 acres of land in the Nantahala Gorge were transferred to the Nantahala National Forest and lost to the tax rolls. The property had been owned by the late Percy B. Ferebee, the terms of whose will transferred the property to the federal government. Assuming the property was valued at $100 per acre, then the loss in tax valuation for the 6,000 acres was $600,000. (The actual loss in property valuation shown between 1971 and 1972 and $668,564.)

To summarize, the following shows land ownership (in acres) for Swain County:

Great Smoky Mountains National Park	214,300	214,662	91.1%
Cherokee Indian Reservation	29,400	29,605	80.5% federal
Nantahala National Forest	21,200	21,179	
Tennessee Valley Authority	7,400	[illegible]	
Blue Ridge Parkway	700	701	
Privately Owned Land*	66,200		19.5%
	339,200		100 %

*Of the 66,200 acres in private ownership, it is conservatively estimated that 80% is either subject to flood hazards or had more than 16% slope and is therefore not suitable for most types of development.

The following summarizes the loss in tax valuation to Swain County by reason of the federal ownership or trust status of the above lands:[3]

Year(s) in Which Land was Taken	Purpose	Tax Valuation Lost in Terms of That Year's $
1925-1926	Cherokee Indian Reservation	$ 302,176.00
1928-1931	Great Smoky Mountains Nat'l Park	1,753,591.00
1943-1945	Tennessee Valley Authority	1,173,931.65
1972	Nantahala Nat'l Forest[4]	600,000.00
		$ 3,829,698.65

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[3] It is obvious that property valued at $1,753,951 in 1928-31 would be worth considerably more in terms of today's inflated dollar. It is left to the reader's imagination to consider today's worth of property valued at $5/acre in the 1920's and 30's.

[4] This figure only includes valuation of 6,000 acres of Ferebee property transferred in that year to the Nantahala National Forest.

It is worthy of note from the "Summary Statement" in Attachment 4 that in 1923 (before the acquisition of federal lands began) the property valuation in Swain County was in excess of $13,000,000. It took Swain County 46 years (in 1969) to again reach that figure in property valuation.

Adverse Impact of Excessive Federal Ownership of Lands

The excessive federal ownership of land within Swain County has adversely impacted on virtually all aspects of the county's economic and social well-being. The following socioeconomic indicators are given over a period of years (when available) for Swain County and the State of North Carolina[5] to depict the continued chronic distress suffered by Swain County and to also show that the county's position in relation to the socioeconomic well-being of the state has not increased significantly.

Population and Rate of Change for Swain County 1900-2000[6]

Year	Population	Rate of Change
1900	8,401	
1910	10,403	23.8
1920	13,224	27.1
1930	11,558	- 12.5
1940	12,177	5.3
1950	9,921	- 18.5
1960	8,387	- 15.5
1970	8,835	5.3
1980	10,000	13.2
1990	10,900	9.0
2000	11,400	4.6

The population drop between 1920 and 1930 was caused by the displacement of persons residing on lands taken to form the Great Smoky Mountains National Park. The drop in population between 1940 and 1950 was caused by the displacement of people when the Fontana Reservoir was built by TVA. The drop between 1950 and 1960 was caused by the migration of youth having to leave to find jobs. While the population of Swain County is expected to increase to the year 2000, it is still not projected to increase to the county's 1920 population peak of 13,224.

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[5] Comparable statistics were not always available for the United States; therefore, N. C. statistics were used for comparison in most instances. Statistics were taken from A Profile of North Carolina Counties, 1977 and subsequent updates.

[6] Source: U. S. Bureau of the Census and Social Science Advisory Committee, N. C.

Average weekly wages in Swain County have also been traditionally low when compared to other counties or the State of North Carolina, as indicated below:[7]

	North Carolina	Swain County
Construction	$ 179.71	$ 101.69
Manufacturing	187.42	136.48
Transportation, Communications & Utilities	249.40	191.70
Finance, Insurance and Real Estate	173.90	109.80
Service	144.50	97.10
Trade	151.57	87.60

Attachment 7 contains a 1977 listing of employers in Swain County listed with the North Carolina Employment Security Commission. There are only nine major employers in the county employing over 50 persons. Of the 79 employers employing less than 50 persons, 33 are located on the Cherokee Indian Reservation, cater to the tourist/souvenir trade, and are generally seasonal in nature. None of the employers can be considered "high-wage" industries.

The Financial State of the Swain County Government

The financial state of Swain County due primarily to the excessive federal ownership of land in the county can only be described as poor. Attachment 7 contains the chart, "Swain County Tax Revenues 1968-77." As an example from the chart, for calendar year 1977, Swain County had a total appraised property valuation of only $66,141,215. Using the tax rate of .70/$100 of assessed valuation, the maximum tax revenues Swain County could hope to collect for that year is $462,988.50. However, primarily for the reason outlined below, Swain County has one of the lowest tax collection rates of any county in the state and the county collected only approximately 89% of the current year tax revenues or $406,796. An examination of the ten year period 1968-77, reveals that in only one year (1974) did the rate exceed 90%.[8] For the other nine years, the rates were between 76.2% and 89.7%.

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[7] N. C. Employment Security Commission, Bureau of Employment Security Research, 2nd Quarter 1977.

[8] A good tax collection rate would be in excess of 95%.

Two points are to be made from the above. First, that Swain County, if its tax collection rate were 100%, would still produce a comparatively minuscule amount of property tax revenues. Secondly, Swain County's low tax collection rate is primarily due to the county's inability to collect personal property taxes from persons residing on the Swain County portion of the Cherokee Indian Reservation (under terms of the treaty with the Cherokee Tribe neither Swain County nor any other county with reservation lands within their boundaries in North Carolina can assess or collect real property taxes on Cherokee Indian Reservation lands). However, the State of North Carolina maintains that "since the Treaty contains no prohibition against the taxation of personal property, it (personal property) is subject to tax whether owned by Indians or non-Indians" (see Attachment 7 containing selected correspondence concerning the taxation of personal property and leasehold interest on Cherokee Indian Reservation lands).

For the 1977 tax levy, the Swain County Tax Collector determined there were 744 listings by up-to-date Cherokee Indian Reservation addresses owing $41,512 in personal property taxes. For that year Swain County failed to collect 10.47% ($47,572) of all real and personal property taxes. Therefore, approximately 87% of the uncollected 1977 Swain County property taxes were owed by persons residing on the Swain County portion of the Cherokee Indian Reservation. Swain County officials believe that a similar percentage of uncollected taxes in recent years has been owed by Indian Reservation residents of the county.

Cherokee Indian Reservation residents have been advised by legal counsel that they are not subject to real or personal property taxes imposed by Swain County (see correspondence in Attachment 7). In fact, a civil suit has been instigated on behalf of the Cherokee Indians residing on the Qualla Boundary in an attempt to "secure for Plaintiff Tribe and its members the right to conduct business on the Cherokee Indian Reservation free from personal property taxation and to enjoin Defendants from applying the North Carolina personal property tax against members of Plaintiff Tribe residing within the confines of a federal Indian Reservation." Swain County has replied to the complaint and the action is scheduled for an upcoming term of U. S. Federal Court in Bryson City.

Swain County legal counsel feels as though the precedent has been set in other court cases to prohibit the county from assessing and collecting personal property taxes from Indian residents of the Reservation lands in Swain County. However, deletion of this uncollected personal property taxes from the tax rolls will improve the county tax collection rate and its financial status (see below).

The North Carolina Local Government Commission has provided the following additional assessment of the financial state of Swain County:

Legal Debt Limit	$5,291,297
Current Debt	$2,044,000
Legal Tax Limit	$1.50/$100 of assessed valuation
Current Tax Rate	$.70/$100 of assessed valuation

Swain County has the highest debt ratio to appraised property valuation (3.14%) of any of the counties in North Carolina with populations less than 25,000. Chowan County is next highest with a rate of 2.13% (see Attachment 8, Counties -- Analysis of Outstanding Debt at June 30, 1978).

Of additional consideration in determining a local government's financial state is its bond rating. Swain County has no national bond rating. Further, within North Carolina, the North Carolina Municipal Council, Inc. has assigned Swain County the lowest rating (on a scale of 1-100, Swain County's rating is 61) of any county in the State in terms of its financial status. Factors taken into consideration include the county's ability to repay borrowed funds, its financial administration, tax collection rate, economic base, etc. Local governments with a rating of less than 75 are not eligible for bank investments (a bank cannot buy Swain County's bonds).

Lastly, North Carolina State Statutes limit the amount of indebtedness which a local government in the state can incur to 8% of its assessed property valuation. However, while "the 8%" is a legal debt limit, it is "a guide" more than anything else.[9] Of greatest importance is the local government's ability to repay the debt.

Therefore, while Swain County's "legal" debt limit may be $5,291,297, in actuality the county's current indebtedness of $2,044,000 is the maximum which the county can incur at this time.

Swain County incurred the above indebtedness in order to provide badly needed capital improvements. Specifically, in 1971 the county incurred $87,000 indebtedness for water and sewer improvements for the County Industrial Park and in 1976, $2,000,000 for construction of a new Comprehensive County High School. In FY-79 Swain County's payment on its bond indebtedness will be $138,762.50, or approximately 7 % of the county's projected FY-79 expenditures.

While Swain County has already incurred maximum debt to provide limited capital improvements, there are still many public facility and infrastructure needs to be met, some due to the physical deterioration of existing public structures.

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[9] In addition, a unit of local government could incur a self-supporting debt (such as for water, gas, electricity, sewer, etc.), above the 8% limit.

transportation concepts / great smoky mountains national park / 1971

FOREWORD

At a public meeting on June 23, 1969, former Secretary Hickel instructed the Director of the National Park Service to develop and analyze possible alternative solutions to the construction of a road along the north shore of Fontana Reservoir as provided for in the agreement with the State of North Carolina, Swain County, the TVA, and the Department, dated October 8, 1943, (see Appendix A), and to recommend a solution.

Secretary Morton [illegible] this directive [illegible] moreover, that the solution sought should be one which will meet the program needs of the Great Smoky Mountains National Park; serve the national interests of park preservation; enhance, if possible, the recreational economic potential of the region surrounding the park; and serve as a basis for discharging the obligations of the United States under the above-mentioned contract.

The following report briefly summarizes all of the known alternatives suggested over the years, as well as alternatives developed by the professional staff of the National Park Service pursuant to the former Secretary's directive.

Based on a study of all of the solutions proposed, I recommend, for consideration of the parties at interest, proposal "B." An environmental statement relating to this proposal is included as a part of the report.

This recommendation, to be implemented, will require the support of Swain County, the States of North Carolina and Tennessee, and the U.S. Forest Service of the Department of Agriculture.

Since the matter is of such overriding public interest, I have concluded that the study report should be made available as public information prior to its evaluation by the Secretary, the congressional delegations and Governors of North Carolina and Tennessee and the county commissioners of [illegible], it should be clearly understood that this report has not been approved by the parties to the 1943 contract, nor those officials (except the Director, National Park Service) who will be involved ultimately in the implementation of its recommendation.

If the recommendation of this report is acceptable to the parties at interest, it will require an amendment to the 1943 contract, and legislation for its implementation.

Comments are invited and earnestly solicited. Statements may be addressed to the Director, National Park Service, Washington, D.C. A transcript of all such comments will be provided to the parties at interest before consideration of an amendment to the contract. Comments are requested within 30 days from the date of the release of the report.

George B. Hartzog, Jr.
Director, National Park Service

BACKGROUND INFORMATION

Department of the Interior has, for twenty-seven years, been committed to the construction of a road along the north shore of Fontana Lake. The commitment for that road, which is sometimes known as the "Bryson City-Fontana Road" or the "North Shore Road," is the result of an agreement of October 8, 1943, between the Department of the Interior, the Tennessee Valley Authority, the State of North Carolina, and Swain County, North Carolina.

The agreement provided that some 44,000 acres of land acquired by the TVA for the development of Fontana Dam [illegible] Mountains National Park. In return for this land the National Park Service would build 34 miles of road along the north shore of Fontana Lake as replacement for the existing road which was to be flooded by the rising waters of the reservoir.

Within the context of this agreement the North Shore Road was promulgated as a part of a greater circumferential scheme:

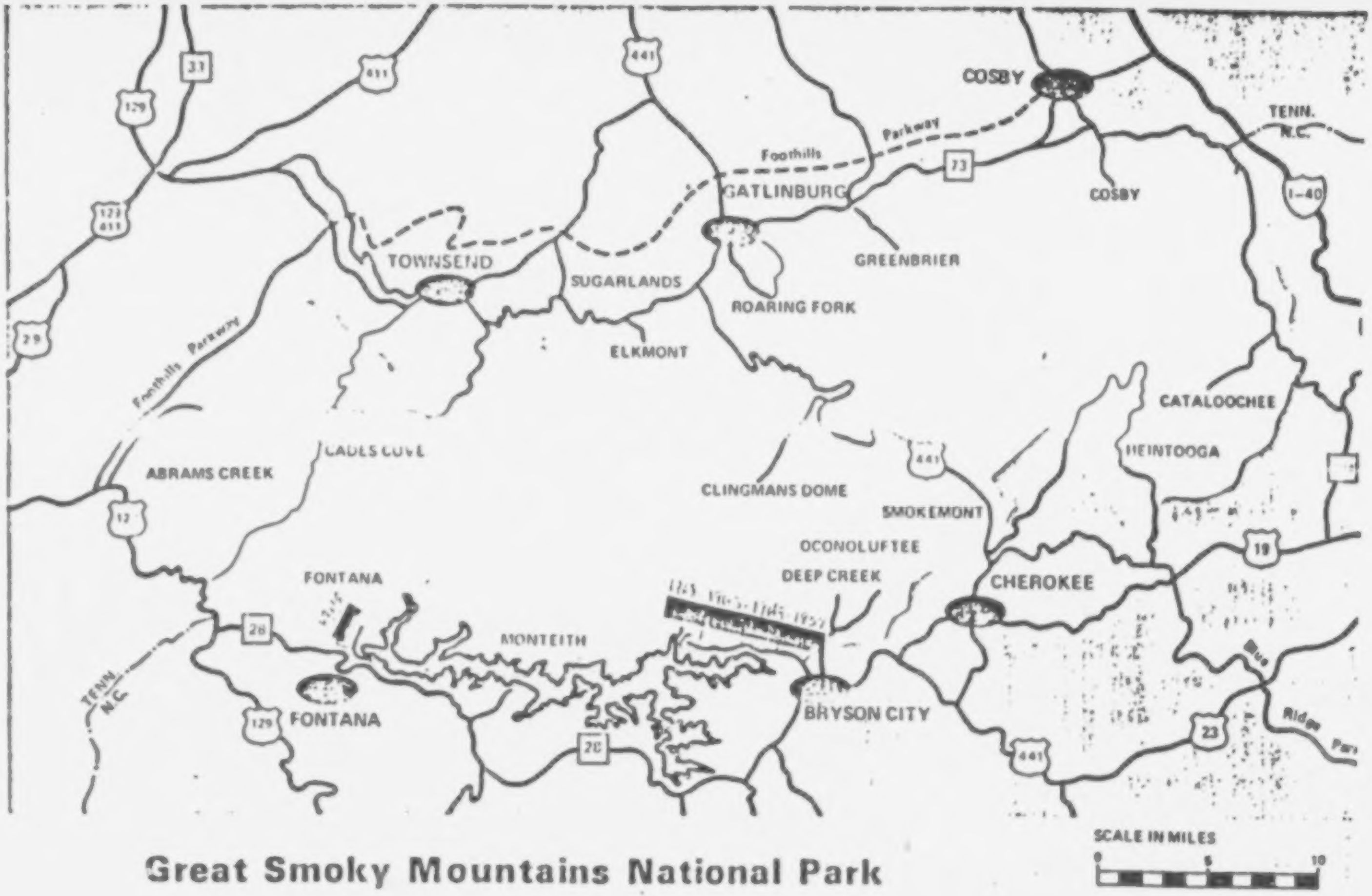
- "The Department represents and states that it has evolved a master plan for the development of the park as extended by the addition of the lands described in section 1 hereof, and that said master plan includes an "around the park" road, of which the park section of a projected road between Deals Gap and Bryson City constitutes an important link." (Quote from 1943 agreement)

Copy of 1943 agreement — Appendix A

CONSTRUCTION HISTORY

		COST	SECTION
1947-1948	0.93-mile spur at Fontana Dam	$ 235,538	A(9D1)
1959	State completes 2.5-mile section from Bryson City to park boundary		
1963	2.5 miles connected to State construction	775,627	1(9A1)
1965	2.1-mile extension of above	797,917	2(9A2)
1965	Slope stabilization and slide control (Sections 1 & 2)	35,734	
1969	1.0 mile including tunnel	2,204,728	3(9A3)
	[illegible] miles TOTAL	$4,109,544	

Complete narrative background statement is included as "Appendix B."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ABRAMS CREEK
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CLINGMANS DOME
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CATALOOCHEE
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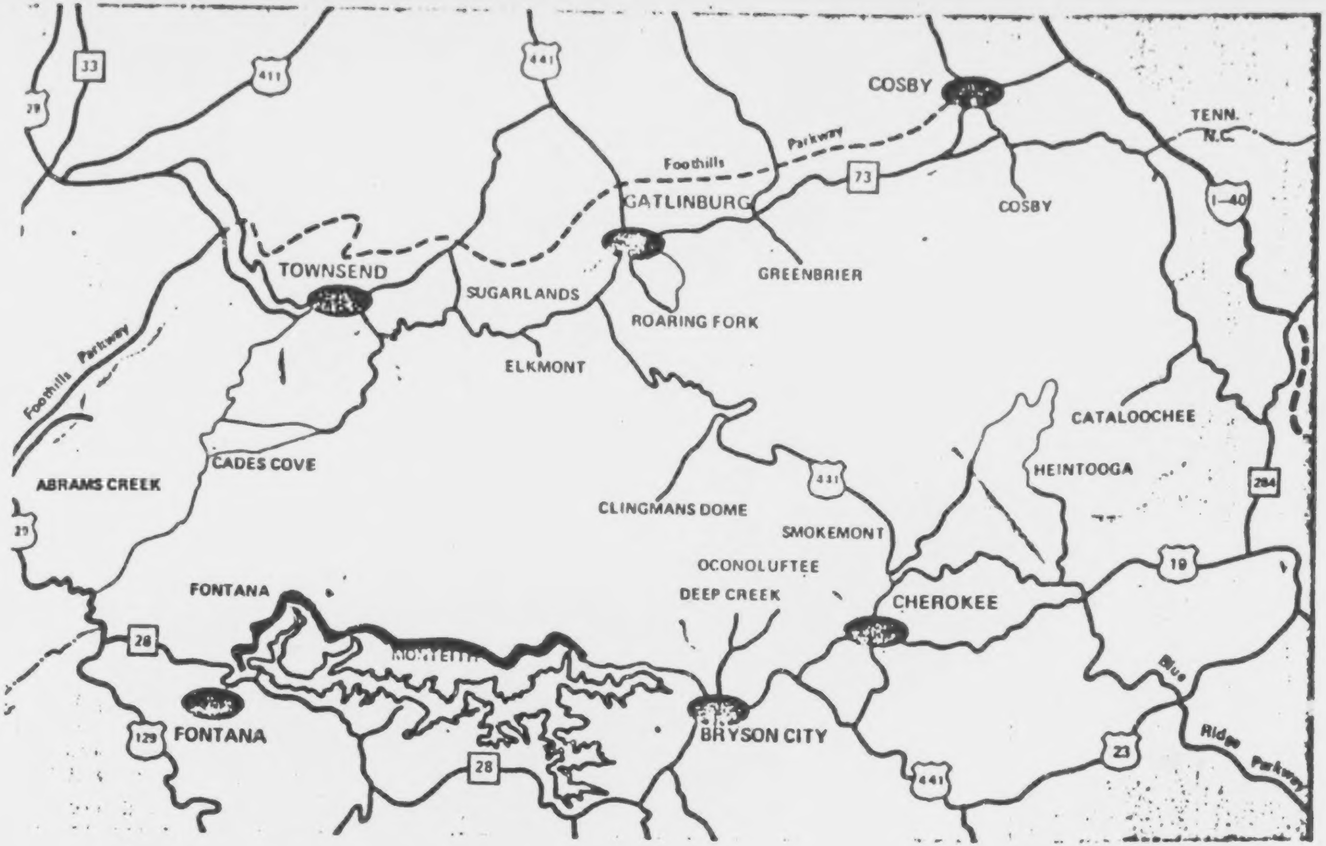
Great Smoky Mountains National Park

POSSIBLE SOLUTIONS

A NORTH SHORE ROAD

This proposal complies with the 1943 agreement. To date 5 miles of this route have been constructed. Estimated cost t complete is $39,000,000.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Great Smoky Mountains National Park

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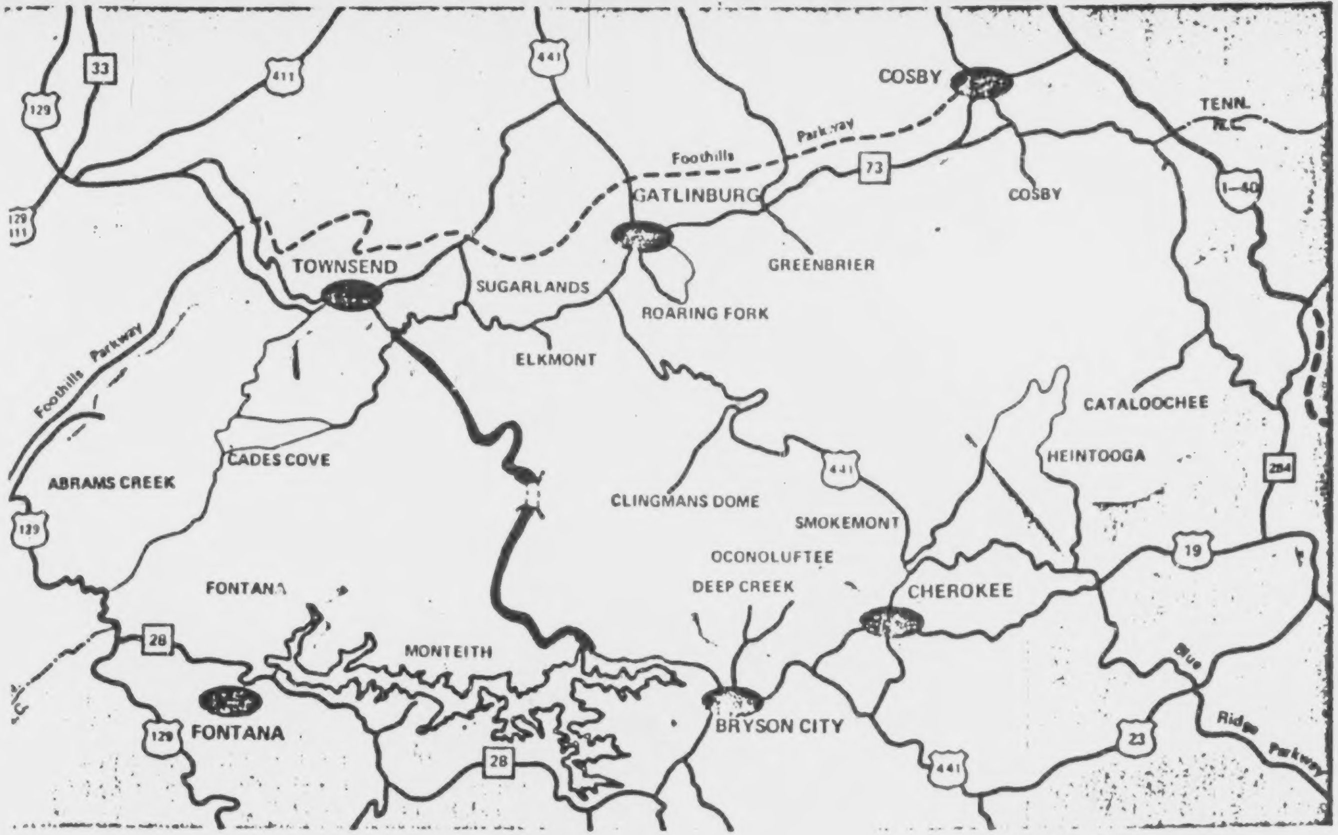
B TRANSMOUNTAIN ROAD

In 1965, an amendment was proposed to the agreement that would have substituted a 34.7-mile transmountain road for the North Shore Road. It would have connected Townsend, Tennessee, with Bryson City, using the north shore route from the boundary as far as Forney Creek which was common to both this road and the North Shore Road.

Swain County and North Carolina agreed to the amendment, but because of the strong opposition to the proposal from conservation groups, execution by the Department was withheld pending further review.

It is currently estimated that it would cost approximately 30.3 million dollars to construct the 34.7 miles of roadway of the transmountain road, 4.1 million dollars to extend the existing roadway to Forney Creek, and 2.7 million dollars to construct a spur roadway to Monteith Branch, if that development concept is to be consummated. Total cost of completion is 37.1 million dollars.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Great Smoky Mountains National Park

STATEMENT BY DR. R. MAX ABBOTT, SWAIN COUNTY COMMISSIONER, SWAIN COUNTY, NORTH CAROLINA.

RE: SB 693

JUNE 23, 1987, WASHINGTON, D.C.

Mr. CHAIRMAN AND MEMBERS OF THIS COMMITTEE:

IT IS INDEED A PLEASURE TO SUBMIT THIS STATEMENT TO THIS DISTINGUISHED BODY FOR CONSIDERATION.

MY NAME IS MAX ABBOTT, SWAIN COUNTY COMMISSIONER AND A NATIVE OF SWAIN COUNTY.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS MY CONCERN FOR THE UNSETTLED ISSUE OF THE "1943 AGREEMENT", WHICH HAS LINGERED ON FOR FORTY-FOUR YEARS.

PLEASE ALLOW ME TO REVIEW THE POSITION SWAIN COUNTY FOUND HERSELF IN AS A RESULT OF THE "1943 AGREEMENT" AND THE IMPOUNDMENT OF FONTANA LAKE. BONDS WERE ISSUED IN 1920 IN THE AMOUNT OF $600,000 TO CONSTRUCT A ROAD FROM DEALS GAP TO BRYSON CITY. IN 1946 SWAIN COUNTY ASSUMED THE OUTSTANDING PRINCIPLE OF $456,000 TOGETHER WITH THE ACCRUED INTEREST OF $235,000. THIS ROAD (WHICH LATER BECAME KNOWN AS HIGHWAY 288) WAS IN GREAT PART FLOODED BY THE TENNESSEE VALLEY AUTHORITY UPON COMPLETION OF THE FONTANA DAM AND HAS BEEN COVERED BY WATERS OF THE FONTANA LAKE FOR FORTY-FOUR YEARS. SWAIN COUNTY WAS BURDENED BY THE OBLIGATION TO PAY FOR A HIGHWAY THAT WAS UNDER WATER. THE TENNESSEE VALLEY AUTHORITY DID MAKE A PAYMENT OF $400,000 TO THE STATE ON SWAIN COUNTY'S BEHALF TO HELP REDUCE THE OUTSTANDING DEBT. IN SPITE OF THE SEVERLY LIMITED PROPERTY TAX BASE, SWAIN COUNTY CONTINUED TO MAKE PAYMENTS UNTIL FINAL PAYMENT OF $286,000 was made in 1975.

SWAIN COUNTY IS ONE OF THE MOST BEAUTIFUL COUNTIES IN THE UNITED STATES. WE ARE UNIQUE IN THAT WE HAVE 216,662 ACRES OF GREAT SMOKY MOUNTAIN NATIONAL PARK LAND, 29,405 ACRES OF CHEROKEE INDIAN RESERVATION, 21,179 ACRES OF NANTAHALA NATIONAL FOREST, 709 ACRES OF BLUE RIDGE PARKWAY, AND 7,368 ACRES IN THE FONTANA DAM AND RESERVOIR AREA. WE ARE PROUD OF THE BEAUTY SWAIN COUNTY HAS TO OFFER.

WHILE ALL OF THESE ATTRACTIONS ARE IN SWAIN COUNTY, THEY ARE OWNED BY THE FEDERAL GOVERNMENT - ALL THAT IS LEFT FOR SWAIN COUNTY'S PROPERTY TAX BASE IS 63,877 ACRES OR 16% OF IT'S TOTAL ACREAGE. THIS GENTLEMEN, IS SWAIN COUNTY'S LIVELIHOOD - REVENUE FROM 16% OF HER TOTAL ACREAGE. I AM SURE YOU CAN IMAGINE HOW SEVERLY CRIPPLING THIS LIMITED TAX BASE CAN BE FOR OUR COUNTY.

SWAIN COUNTY'S CITIZENS ARE PROUD PEOPLE AND ARE NOT ASKING FOR ANY THING THAT IS NOT DUE THEM: WE HAVE PROVEN WE WORK HARD TO MEET OUR OBLIGATIONS. THE CITIZENS OF SWAIN COUNTY ARE ASKING FOR A SETTLEMENT OF A LONG OVER DUE ISSUE. SETTLEMENT OF THE "1943 AGREEMENT" WOULD ENABLE SWAIN COUNTY TO MEET MANY OF THE DESPERATELY NEEDED IMPROVEMENTS IN OUR SCHOOL AND PUBLIC FACILITIES THAT ARE CURRENTLY NOT BEING MET DUE TO LACK OF FUNDS.

I SINCERELY REQUEST LEGISLATION FAVORABLY REPORTED BY THIS COMMITTEE INCLUDE THE FOLLOWING POINTS.

(1) A 9.5 MILLION DOLLAR CASH SETTLEMENT. LANGUAGE BOTH AUTHORIZING AND APPROPRIATING THIS SUM UPON RATIFICATION OF BILL. WITHOUT THIS SWAIN COUNTY CANNOT SUPPORT THIS OR ANY OTHER LEGISLATION. PAYMENT OF THE 9.5 MILLION WOULD BE A PREREQUISITE TO ANY LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK COMING UNDER THE PROTECTION OF THE WILDERNESS ACT OF 1964.

(2) FORGIVENESS OF THE FARMERS HOME ADMINISTRATION SCHOOL BOND INDEBTEDNESS.

(3) AS A MINIMUM, REASONABLE ACCESS TO CEMETERIES LOCATED WITHIN THE THE 44,000 ACRE TRACT WITH PERMISSABLE MOTOR VEHICLE ACCESS WHERE APPROPRIATE

PAGE 3 -REMARKS- DR. R. MAX ABBOTT

(4) MANAGEMENT PRACTICES OF THE GREAT SMOKY MOUNTAIN NATIONAL PARK SHALL NOT INTERFERE WITH PRESENT AND FUTURE USE OF FONTANA LAKE.

(5) PROHIBIT THE CLOSING OF NEWFOUND GAP ROAD, OFTEN REFERRED TO AS U.S. 441, FROM CHEROKEE TO GATLINBURG AND PROVIDE UNRESTRICTED PRIVATE VEHICLE USE.

(6) THE CONCEPT OR IMPLEMENTATION OF ANY "BUFFER ZONES" EXTENDING BEYOND THE BOUNDARIES OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK BE PROHIBITED. ANY INTERFERENCE WITH ADJACENT PRIVATE PROPERTY RIGHTS IS UNACCEPTABLE.

(7) SUCH OTHER RELIEF AS THIS COMMITTEE DEEMS SUITABLE AND APPROPRIATE THAT HAS A REASONABLE CHANCE OF PASSING BOTH HOUSES OF CONGRESS.

THANK YOU FOR YOUR TIME AND ATTENTION TO OUR REQUESTS. WE HOPE A SETTLEMENT CAN BE MADE ON THIS MUCH OVERDUE ISSUE.

THANK YOU,

R. Max Abbott

DR. R. MAX ABBOTT
SWAIN COUNTY COMMISSIONER
SWAIN COUNTY, NORTH CAROLINA

Swain County

1871

COUNTY COMMISSIONERS
JAMES L COGGINS
Chairman
MEREDITH BACON
[redacted]
MAX ABBOTT

CLERK TO THE BOARD
ADMINISTRATIVE ASST.
LINDA CABLE

PAGE 1 -REMARKS- JAMES L. COGGINS

STATEMENT BY JAMES L. COGGINS, CHAIRMAN SWAIN COUNTY BOARD OF COMMISSIONERS, SWAIN COUNTY, NORTH CAROLINA.

RE: SB 693

JUNE 23, 1987, WASHINGTON, D.C.

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THIS COMMITTEE:

MY NAME IS JAMES L. COGGINS, CHAIRMAN OF THE SWAIN COUNTY BOARD OF COMMISSIONES, SERVING MY NINTH YEAR AS CHAIRMAN.

DURING MY FIRST TERM, I PARTICIPATED IN APPOINTING TWO OF THE MEMBERS OF THE AD HOC COMMITTEE THAT EVENTUALLY PREPARED THE RECOMMENDATIONS FOR THE RESOLUTION OF THE 1943 AGREEMENT. ON NOVEMBER 28, 1980, THE THEN SECRETARY OF THE INTERIOR, RESPONDED TO THE AD HOC COMMITTEE'S SETTLEMENT PROPOSAL BY ENDORSING THE $9.5 MILLION DOLLAR CASH SETTLEMENT AND FORGIVENESS OF THE SCHOOL BOND INDEBTEDNESS. I HAVE ATTACHED TO THIS STATEMENT A COPY OF THAT MEMORANDUM. SWAIN COUNTY HAS BEEN WAITING SINCE 1943 FOR THE FULFILLMENT OF THE ORIGINAL AGREEMENT AND HAS NOW BEEN WAITING 7½ YEARS FOR THE UNITED STATES OF AMERICA TO FULFILL THE SETTLEMENT OF THE 1980 MEMORANDUM OF UNDERSTANDING.

SWAIN COUNTY HAS CONTINUED TO ABIDE BY THE MEMORANDUM OF UNDERSTANDING OF NOVEMBER 28, 1980.

WE ARE WEARY OF MAKING AGREEMENTS THAT ARE NEVER HONORED BY THE FEDERAL GOVERNMENT.

YOU, GENTLEMEN, AND YOUR COLLEAGUES IN THE CONGRESS HAVE AN OPPORTUNITY TO DEMONSTRATE TO THE CITIZENS OF SWAIN COUNTY AND THE STATE OF NORTH CAROLINA THAT THE UNITED STATES GOVERNMENT IS CAPABLE OF FULFILLING A LONG STANDING OBLIGATION.

I AM SURE YOU CAN APPRECIATE THE ECONOMIC HARDSHIP THAT IS EXPERIENCED IN A COUNTY IN WHICH THE FEDERAL GOVERNMENT OWNS, CONTROLS AND MANIPULATES 84% OF IT'S LAND.

THE SETTLEMENT AS AGREED TO BY THE SECRETARY OF THE INTERIOR IS NOT A HAND OUT OR GIVE AWAY PROGRAM, BUT, ONE THAT SATISFIES A LEGAL OBLIGATION OF THE FEDERAL GOVERNMENT TO SWAIN COUNTY.

OUR ERODED TAX BASE PLACES SEVERE CONSTRAINTS ON OUR COUNTY'S ABILITY TO ADEQUATELY PROVIDE MINIMUM SERVICES AND FACILITIES FOR OUR PEOPLE. THE CASH SETTLEMENT WILL ENABLE US TO MEET OUR RESPONSIBILITIES TO THE CITIZENS OF SWAIN COUNTY.

THEREFORE, GENTLEMEN, IT IS ONLY FAIR THAT ANY LEGISLATION FAVORABLY REPORTED BY THIS COMMITTEE INCLUDE AT LEAST THE FOLLOWING:

(1) A $9.5 MILLION DOLLAR CASH SETTLEMENT AND FORGIVENESS OF THE F.H.A. SCHOOL BOND INDEBTEDNESS; WITHOUT THIS WE WOULD NOT BE ABLE TO SUPPORT THIS OR ANY OTHER LEGISLATION. TO INSURE THAT SWAIN COUNTY IS PAID, PAYMENT OF $9.5 MILLION IS A PREREQUISITE TO ANY LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK COMING UNDER THE PROTECTION OF THE WILDERNESS ACT OF 1964.

(2) AS A MINIMUM, REASONABLE ACCESS TO CEMETARIES LOCATED WITHIN THE 44,000 ACRE TRACT WITH PERMISSABLE MOTOR VEHICLE ACCESS WHERE APPROPRIATE.

(3) MANAGEMENT PRACTICES OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK SHALL NOT INTERFERE WITH PRESENT AND FUTURE USE OF FONTANA LAKE.

PAGE 3 -REMARKS- JAMES L. COGGINS

(4) PROHIBIT THE CLOSING OF THE NEWFOUND GAP ROAD, OFTEN CALLED HIGHWAY 441 FROM CHEROKEE TO GATINBURG AND PROVIDE UNRESTRICTED PRIVATE VEHICLE USE.

(5) THE CONCEPT OR IMPLEMENTATION OF ANY "BUFFER ZONES" EXTENDING BEYOND THE BOUNDARIES OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK BE PROHIBITED. ANY INTERFERENCES WITH ADJACENT PRIVATE PROPERTY RIGHTS IN UNACCEPTABLE.

(6) SUCH OTHER RELIEF AS THE COMMITTEE DEEMS SUITABLE AND APPROPRIATE THAT HAS A REASONABLE CHANCE OF PASSING BOTH HOUSES OF CONGRESS.

IT IS MY SINCERE DESIRE THAT CONGRESS WILL AT LAST PASS OUR LONG WAITED FOR SETTLEMENT OF THE 1943 AGREEMENT CONTROVERSY IN A MANNER THAT WILL BENEFIT THE PEOPLE OF SWAIN COUNTY, THE STATE OF NORTH CAROLINA AND THE TOWN OF BRYSON CITY.

THANK YOU FOR YOUR TIME AND ATTENTION TO OUR CONCERNS.

J. L. Coggins

JAMES L. COGGINS
CHAIRMAN
SWAIN COUNTY BOARD OF COMMISSIONERS
BRYSON CITY, NORTH CAROLINA 28713

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 6 1980

Mr. James L. Coggins
Chairman, Swain County Commissioners
Drawer A
Bryson City, North Carolinia 28713

Dear Mr. Coggins:

In 1978, I visited Great Smoky Mountains National Park and western North Carolina to become familiar with the park and learn more about the agreement entered into on July 30, 1943, by the Tennessee Valley Authority, Swain County, the State of North Carolina, and the Department of the Interior.

You are well aware that the Department and the National Park Service, as stated in the agreement, began construction on a road in the park along the north shore of Fontana Reservoir in the mid-1960s. Subsequently, previously unknown environmental concerns and conditions surfaced and caused discontinuation of the road project, and Congress declined further funding.

Over the years, others have proposed alternative solutions to resolving the conditions of the agreement but none have been successful. After my visit and at the suggestion of Representative Lamar Gudger, I appointed an Ad Hoc Committee to look into the controversies surrounding the agreement and to recommend possible solutions to me. The committee met and recommendations were made. Some recommendations for Departmental action were within our authority, while others were not. Members of the Swain County Commission did not accept the first recommendations of the Ad Hoc Committee. Subsequent committee meetings have resulted in proposed actions for the Department. Many of those alternatives are similarly beyond our authority.

Under the terms of the original agreement, the obligation to build the road is contingent upon the availability of appropriations. Congress has not appropriated funds in the last 10 years to continue construction on the North Shore Road. Absent action by Congress, there is no remaining legal obligation on the part of the Department with regard to the 1943 Agreement. As we have previously advised you, the Department will not request any more funds for this project because of environmental constraints

That determination does not lessen my desire to act in good faith to equitably resolve this longstanding controversy, and to seek out ways to work cooperatively with the residents around Great Smoky Mountains National Park. Inasmuch as this situation has existed for 37 years, it is now time to resolve this controversy. We will adopt the following mechanisms whereby our efforts may be brought to a final resolution and after which time no further Federal moral obligation will remain.

Efforts to date have convinced me that the only means whereby all the expectations of the county can be met is by congressional action. I will be happy to work with the North Carolina delegation toward an expeditious legislative resolution of the problem.

In the meantime, the Department, through the National Park Service, will work with State and county representatives and take any actions consistent with delegated authorities to assist the State and county in matters that are in the best interest of all parties. Many of the recommendations of the Ad Hoc Committee are within that authority, and will be considered for action by the Department.

The following are the Department's responses to the points made in the recommendations by the committee.

If Swain County and the State of North Carolina upgrade State and county roads outside the park from Bryson City to Deep Creek and the Gailbraith Road from the park boundary to Route 19 at Ela to form a loop road from Bryson City through the park to Route 19 towards Cherokee, the National Park Service will upgrade the existing Gailbraith Creek Road within the park to complete this loop.

The National Park Service, as outlined in the General Management Plan for Great Smoky Mountains National Park, will request funds to develop an interpretive center at Deep Creek near Bryson City and funds to develop a day-use facility near the terminus of the present segment of the North Shore Road within the park.

The National Park Service will continue to work with the North Shore Cemetery Association to provide access to the existing cemeteries within the park, including transportation across Fontana Reservoir and suitable transportation on existing trails within the park. The Service will continue maintenance and upkeep of the cemeteries within the park.

The Department will support a request by Swain County to the Economic Development Administration or others for financial assistance to develop water and sewer utilities to Bryson's Branch, Toot Hollow and Deep Creek. If such service is provided National Park Service will hook onto water and sewer utility lines at Deep Creek for service to the facilities located and proposed at the Deep Creek Developed Area.

The Department will not take any action to extend the Blue Ridge Parkway beyond its present terminus at Route 441 because of environmental constraints and degradation which would occur to Great Smoky Mountains National Park by additional new heavy road construction.

The Department will not assign personnel at Bryson City as was recommended. To do so would not provide the most effective use of the park's limited personnel.

It is beyond the authority of the Department to take direct action on several of the recommendations of the committee, but we will support county actions and take every opportunity to influence others to take action to assist the county.

Specifically, the Department will support the county in attempting to secure an Economic Development Administration grant for a new 30-acre industrial site. This is in addition to the assistance the Department has already provided by contacting the Department of Commerce and the Economic Development Administration and supporting the county's request for funding for the new multipurpose center in Bryson City.

The Department also will support requests for funds and continue to provide assistance through the Youth Conservation Corps and Young Adult Conservation Corps to help develop facilities at the athletic field of Bryson City High School.

It is beyond the Department of the Interior's authority to obtain, and we will have little opportunity to influence, relief from the county's repayment on the Farmers Home Administration loan for the construction of Bryson City High School. We would await congressional initiative on this matter and would be willing to support a proposal for relief within the Department.

It is also beyond the Department's authority to provide a cash settlement for Swain County from appropriated funds. The Department will await congressional initiative for a cash settlement. Our support would depend upon a logical and equitable formula, consistent with the terms of the 1943 Agreement and actions subsequent thereto, as well as an explicit agreement by the county that the legislative resolution is in full settlement of any and all claims the State or county might wish to allege, thereby precluding litigation over this issue.

I believe the foregoing encompasses those concerns on which we may now act, and sets the basis on which we will continue to work, through the National Park Service, with State and county representatives and the Congress. If all parties will work within a 3 year time frame to accomplish the outlined objectives, I will direct the National Park Service to implement those provisions in this letter under their purview within this time period. If after 3 years legislation and full appropriations have not passed Congress, then no further action as outlined in this letter will be pursued. I wish to take this opportunity to thank the members of the Ad Hoc Committee for serving and addressing this complex and persistent issue, and providing recommendations for its resolution. Again, I encourage work with the delegation in order that we may pursue those aspects of these longstanding questions that may be resolved only by congressional action.

Sincerely,

Cecil D. Andrus
SECRETARY

DECISION SHEET

North Shore Road, Great Smoky Mountains NP

Option 1 **Cash Settlement for $5.5 Million**

____

Support Swain County's request for $5.5 million based upon their formula for the road portions of the amount only and not support the request for funds to make up for the loss of tax base.

Option 2 **Cash Settlement for $9.5 Million**

CDA

Support a figure of $9.5 million based upon the value of the road in 1940 at $1.3 million and compounded annually at 5 percent.

November 28, 1980

Cecil D. Andrus
SECRETARY

87-11

SWAIN COUNTY, NORTH CAROLINA

RESOLUTION

The Swain County Commissioners, during regular session, did conduct the following business:

WHEREAS, on October 8, 1943 Swain County, the State if North Carolina, the Tennessee Valley Authority and the U.S. Department of Interior entered into that certain agreement which commonly came to be known as the "1943 Agreement", and the same is attached as Appendix "A"; and

WHEREAS, the U. S. Department of Interior in 1949 did commence construction of the North Shore Road and completed approximately a mile in length leading from Fontana Dam; and

WHEREAS, construction work on the North Shore Road ceased until the State of North Carolina agreed in 1959 to construct a road from Bryson City to the Great Smoky Mountain National Park boundary and thereby causing the U. S. Department of Interior a year later to resume construction; and

WHEREAS, the parties to the 1943 Agreement (or assignees) did attempt to enter into an agreement in 1965 that proposed a 34.7 mile transmountain road in exchange for construction of the North Shore Road, and construction of the North Shore Road has been terminated at the end of the tunnel completed in 1969; and

WHEREAS, the Department of Interior to date has not been able to discharge its obligations under the above-mentioned contract; and

WHEREAS, the parties of the above-mentioned contract did in October, 1979 establish a Study Committee to make recommendation for a resolution of the 1943 Agreement; and

WHEREAS, the Study Committee did make reccmendation, and based upon said recommendation the Swain County Commissioners, taking into consideration the recreational-economic potential of Swain County immediately adjacent to the Great Smoky Mountains National Park and national interest of the park's preservation, endorsed introduction of House Bill 8419 as introduced by the Honorable Lamar Gudger attached hereto as Appendix "B" and approved by then the Secretary of the Interior Cecil Andrus as the resolution to the 1943 Agreement; and

WHEREAS, said above legislation was introduced in the U. S. House of Representatives and like legislation in the U. S. Senate during a lame duck session was not passed prior to Congress recessing; and

WHEREAS, Senator Baker and Senator Sasser of Tennessee co-sponsored legislation in the United States Senate and a portion of Senate Bill 1947 provided for an equitable resolution of the 1943 Agreement and was not passed during the 1984 Session; and

WHEREAS, Congressman Duncan of Tennessee and Congressman Clark of North Carolina co-sponsored legislation in the United States House of Representatives and a portion of House Bill 4262 provided for an equitable resolution of the 1943 Agreement and was not passed in the 1984 Session;and

WHEREAS, Senator Sanford of North Carolina and Senator Sasser of Tennessee have introduced Legislation in the United States and a portion of Senate Bill 693 does provide for an equitable resolution of the 1943 Agreement; and

WHEREAS, Congressman Clarke of North Carolina introduced legislation in the United States House of Representatives and a portion of House Bill HR1495 does provide for an equitable resolution of the 1943 Agreement; and

THEREFORE, BASED UPON THE FOREGOING, The Swain County Commissioners do hereby endorse and support the passage of the bipartisan legislation currently pending before Congress, to-wit Senate Bill 693 and House Bill HR1495 ; and

FURTHERMORE, the Swain County Commissioners strongly encourage not only the North Carolina Delegation, but all members of the U. S. Congress, to end this much over due Settlement of the "1943 Agreement" by passage of Senate Bill 693 and House Bill HR1495.

This is the 19th day of June 1987.

Passed by unanimous vote.

SWAIN COUNTY BOARD OF COMMISSIONERS

J. L. Coggins
JAMES L. COGGINS, CHAIRMAN

Mercedith Bacon
MERCEDITH BACON, MEMBER

APPROVED AS TO FORM

DR. R. MAX ABBOTT, MEMBER

STATEMENT BY DR. HAROLD L. BACON, MAYOR PRO-TEM BRYSON CITY, N.C.

RE: SB 693 // HR 1495

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE IT IS AN HONOR AND A PLEASURE TO APPEAR BEFORE THIS DISTINGUISHED BODY TODAY.

MY NAME IS HAROLD L. BACON, A RESIDENT OF SWAIN COUNTY SINCE 1935 AND IN ACTIVE MEDICAL PRACTICE AND AT PRESENT MAYOR PRO-TEM OF THE BOARD OF ALDERMEN OF BRYSON CITY.

MY POSITION AND THAT OF THE TOWN BOARD OF ALDERMEN OF BRYSON CITY IS STATED IN THE FOLLOWING RESOLUTION:

BE IT RESOLVED THAT THE BRYSON CITY BOARD OF ALDERMEN SUPPORT THE SWAIN COUNTY BOARD OF COMMISSIONERS IN THEIR RESOLUTION IN FAVOR OF A SETTLEMENT OF THE 1943 AGREEMENT BETWEEN SWAIN COUNTY AND THE FEDERAL GOVERNMENT THROUGH WHICH THE TENNESSEE VALLEY AUTHORITY TOOK SWAIN COUNTY ACREAGE IN THE BUILDING OF FONTANA DAM WITH THE AGREEMENT TO BUILD A ROAD FROM BRYSON CITY THROUGH THE 44,000 ACRES TO DEALS GAP.

BE IT FURTHER RESOLVED WE CONCURE WITH SWAIN COUNTY'S DECISION

WE SUPPORT THE BILL BECAUSE OF THE TREMENDOUS ECONOMIC NEEDS OF OUR PEOPLE. 84% OF THE COUNTY BEING OWNED BY THE FEDERAL GOVERNMENT THEREBY LIMITING OUR TAX BASE AND INABILITY TO GENERATE REVENUE.

WE ARE A LOW INCOME PEOPLE WITH HIGH UNEMPLOYMENT RATE.

I RESPECTIFULLY REQUEST THAT THE 44,000 ACRE TRACT OF LAND SHOULD NOT BE PLACED IN WILDERNESS UNTIL THE DEPARTMENT OF INTERIOR HAS PAID THE 9.5 MILLION AND FORGIVENESS OF THE SCHOOL BOND INDEBTEDNESS HAS OCCURRED.

PAGE 2 -REMARKS- HAROLD L. BACON

I AM SUPPORTING THE CASH SETTLEMENT OF THIS BILL IN LIEU OF THE ROAD FOR THE PRACTICAL REASON THAT ALL EFFORTS TO BUILD THE ROAD FOR THE PAST 44 YEARS HAS FAILED.

I STRONGLY URGE THE PASSAGE OF THE CLARK BILL.

THANK YOU,

Harold L Bacon

HAROLD L. BACON
BRYSON CITY, N.C.

19 June 87

U.S. Senate Sub-Committee on Public Lands
National Parks and Forests
and
House of Representatives
Interior and Insular Affairs Sub-Committee
on National Parks and Public Lands

Re: review of SB 605, 23 June 87
hearing on HR 1495, 25 June 87

Dear House & Senate Sub-Committee Members: --

I am a 14-year resident of Swain County. For 8 years I worked for the library system in Western North Carolina of which Swain County is a part. Presently, I earn my living as a writer for newspapers and magazines. Much of my writing for the last 14 years has been about the people and places of the Great Smokies region under consideration in your present reviews and hearings.

I testified before the Great Smoky Mountains Wilderness Area Hearings held in Bryson City on March 16, 1984, chaired by Senators Wallop and Helms. My opinions, as expressed to the senators, ~~at that time~~, have not changed. Indeed, I might add, the situation as I described it at that time, has proven to be accurate. At this time, I'd like to simply review what I said in 1984 as I feel it's still pertinent and may be of assistance to you.

Ideally, there should be a cemetary access road into the southwestern quadrant of the Great Smoky Mountains National Park. Because of Fontana Lake that ~~that~~ particular region of the park offers unique difficulties to those wishing to honor their deceased relatives. Those unique difficulties in terms of access -- so different from the rest of the park -- should be recognized in definite, long-term agreements for transportation assistance.

I personally feel that a properly planned and executed access road would in no way violate the so-called wilderness qualities of that beautiful land. It was, indeed, inhabited by many generations of mountaineers who lived, worked, loved, died, and were buried there. To pretend otherwise -- as I fear some wilderness advocates have done -- is either ignorance or subterfuge.

Unfortunately, I don't really think the uniqueness of this situation is ever going to be recognized. I don't think such an access road is ever going to be built or even seriously considered. Some of those who have fought over the years for this concession have told me that deep in their hearts they don't really think so, either. But they are still fighting what they consider to be the good fight.

And, as I said in 1984, I do not think Senator Helms nor his allies can truly gain this concession. The enviornmental lobby and general national sentiment is simply too strong. Most Americans don't want another road in the Great Smoky Mountains National Park. They come here not to visit a graveyard but a national park.

Anyone looking closely at the background of this 1943-agreement controversy quickly sees that the issue comes to a boil on the average of every 5 years. There have been intervals of 12, 13, 14, and 15 years in which very little or nothing has happened.

So, a stalemate inthe legislative process you are trying to implement probably means Swain County is looking at the early to mid-1990s as the next time to act. Even then the cemetery access road won't be a real possibility. By then the county will have had to go forward without the $9.5 million principal to provide the interest funds it needs as a substitute for the lost tax base. There won't be funds for necessary school services and other basic community services.

This leaves Swain County, in my opinion, between a rock and a hard place. As I see it, the county can go on fighting an honorable but losing battle or put this matter behind us.

I think this means, one, accepting the $9.5 million, and the 44,000-acre wilderness designation;

two, specific legislative which insures permanent access to and maintenance of grave sites based on consultation with the North Shore Cemetery and Historical Association and the Superintendent and his staff of the Great Smoky Mountains National Park;

three, specific legislative language which insures present levels of use on Fontana Lake and other areas adjoining the park (it is imperative that the GSMNP staff know the boundaries of what it's protecting and the residents of the surrounding areas be clear on those boundaries -- that situation does not exist presently);

and four, no buffer zones whatsoever outside the park (the GSMNP staff already has enough work in hand with the 520,000 acres it is already responsible for).

By way of conclusion, I'll add something I didn't say to Senator Helms in 1984. Swain County needs to put this 1943-agreement controversy behind it for psychological and spiritual reasons as much as any other consideration. This controversy has for nearly half-a-century been Swain County's "heritage." Anyone living here for awhile quickly comes to understand the deep bitterness and strife the situation has engendered. It will only continue to do so until the books are closed on the matter. Keeping those books open in the face of unseemly odds in regard to the cemetery road is unreasonable, perhaps foolhardy.

Sincerely,

George Ellison

George Ellison
439 Bryson Branch Rd
Bryson City NC 28713

STATEMENT BY GERALD STEPHENSON, CHAIRMAN DEMOCRATIC PARTY, SWAIN COUNTY, NORTH CAROLINA.

RE: SENATE BILL 693 and HOUSE BILL 1495

TO: CHAIRMAN AND COMMITTEE MEMBERS:

AS CHAIRMAN OF THE DEMOCRATIC PARTY OF SWAIN COUNTY, I WISH TO PERSONALLY ENDORSE SENATE BILL 693 AND HOUSE BILL 1495.

I AM A NATIVE OF SWAIN COUNTY AND A VOCATIONAL TEACHER AT SWAIN COUNTY HIGH SCHOOL WHO KNOWS FIRST HAND THE EDUCATIONAL NEEDS OF THE CHILDREN OF SWAIN COUNTY AND THE BENEFIT A $9.5 MILLION DOLLAR SETTLEMENT WOULD MEAN TO SWAIN COUNTY.

I BELEIVE A JUST, REASONABLE, AND EQUITABLE SOLUTION TO A FORTY-FOUR YEAR CONTROVERSY OVER BUILDING A ROAD THAT OBVIOUSLY HAS LITTLE IF ANY CHANCE FOR PASSAGE DUE TO OVERWHELMING OPPOSITION FROM THE ENVIRONMENTAL COMMUNITY IS PAST DUE.

THE MAJORITY OF THE PEOPLE IN SWAIN COUNTY FEEL THAT CONGRESSMAN JAMES MCCLURE CLARKE, AND SENATORS TERRY SANFORD AND JAMES SASSER HAVE PUT TOGETHER PROPOSED LEGISLATION THAT IS NOT ONLY ACCEPTABLE TO A MAJORITY OF SWAIN COUNTY CITIZENS, BUT, HAS A MORE REASONABLE CHANCE OF PASSING BOTH THE U.S. SENATE AND U.S. HOUSE OF REPRESENTATIVES, THAN SENATOR JESSIE HELM'S COUNTER PROPOSAL.

POSITIVE ACTION HAS BEEN STALEMATED LONG ENOUGH. I SUPPORT THE SWAIN COUNTY COMMISSIONERS AND BRYSON CITY __ BOARD OF ALDERMEN IN THEIR BELIEF THAT THIS LEGISLATION REPRESENTS A JUST SETTLEMENT - OF $9.5 MILLION DOLLARS ALONG WITH CANCELLATION OF A $1.6 MILLION DOLLAR F.H.A. SCHOOL BOND DEBT.

S.B. 693 and H.B. 1495 CONTAIN LANGUAGE ADDRESSING BOTH CEMETERY ACCESS AND WILDERNESS DESIGNATION THAT SATISFIES THE MAJORITY OF

SWAIN COUNTY CITIZENS AND REFLECTS AN HONEST ATTEMPT TO RESPONSIBLY SATISFY THE NEEDS OF NUMEROUS RIVAL INTEREST GROUPS.

I RESPECTFULLY URGE YOUR FAVORABLE CONSIDERATION OF S.B. 693 AND HR 1495.

THANK YOU FOR YOUR TIME AND THOUGHTFUL ATTENTION TO AN ISSUE THAT NEEDS TO BE SETTLED AS QUICKLY AS POSSIBLE TO PROMOTE THE EDUCATIONAL, ECONOMIC, AND SPIRITUAL WELL BEING OF SWAIN COUNTY AND TO SETTLE A JUST DEBT OWED BY THE UNITED STATES TO SWAIN COUNTY.

THANK YOU,

Gerald Stephenson

GERALD STEPHENSON,
CHAIRMAN, SWAIN COUNTY DEMOCRATIC PARTY
152 GRASSY BRANCH ROAD
BRYSON CITY, N.C. 28713

"PLEASE DO NOT ALLOW COMPETING BILLS TO DELAY THIS SETTLEMENT"

OFFICE OF
COMMISSIONERS OF JACKSON COUNTY
Sylva, North Carolina 28779

WAYNE HOOPER
COMMISSIONER OF FINANCE

ROBERT BLANTON
VERONICA NICHOLAS
PART-TIME COMMISSIONERS

DARLENE FOX
COUNTY ACCOUNTANT

W. PAUL HOLT, JR.
COUNTY ATTORNEY

107 Steps To Courthouse

A RESOLUTION SUPPORTING
CONGRESSMAN JAMES M. CLARKE'S BILL
TO SETTLE WITH SWAIN COUNTY.

WHEREAS, Congressman James M. Clarke has introduced a Bill to settle a forty-four year old dispute between Swain County, North Carolina and the United States; and

WHEREAS, the Swain County Government believes the Legislation to be a fair and just settlement for the Citizens of their County; and

WHEREAS, the Citizens of Swain County would receive approximately twelve million dollars in money and pardon of a Federal Debt; and

WHEREAS, portions of the Smoky Mountain National Park would be designated wilderness area, leaving certain roads in the Park to be used by the General Public; and

WHEREAS, provisions are written into the Bill for families and friends to visit the graves of their ancestors; and

WHEREAS, this proposed settlement appears to be in the best interest of the majority of the Citizens of this area and the United States.

NOW, THEREFORE, BE IT RESOLVED, that the Commissioners of Jackson County endorse Congressman Clarke's Bill and encourage a speedy solution of this forty-four year old dispute.

BE IT FURTHER RESOLVED, that copies of this Resolution be presented to Congressman Clarke, Senator Terry Sanford, and the Board of Commissioners of Swain County, North Carolina. ADOPTED, this the 6th day of April, 1987.

(SEAL)

Wayne Hooper
Wayne Hooper, Chairman
Jackson County Board of Commissioners

Darlene Fox, Clerk.

OFFICE OF

COMMISSIONERS OF JACKSON COUNTY

Sylva, North Carolina 28779

WAYNE HOOPER
COMMISSIONER OF FINANCE

ROBERT BLANTON
VERONICA NICHOLAS
PART TIME COMMISSIONERS
Ph: (704)586-4055
Extension 212

DARLENE FOX
COUNTY ACCOUNTANT

W. PAUL HOLT, JR.
COUNTY ATTORNEY

107 Steps To Courthouse

July 18, 1987

STATEMENT BY WAYNE HOOPER, CHAIRMAN, JACKSON COUNTY BOARD OF COMMISSIONERS

TO: CHAIRMAN AND DISTINGUISHED MEMBERS OF THIS COMMITTEE

REF: Senate Bill #693
House Bill HR1495

As Chairman of the Jackson County Board of Commissioners, I wish to personally endorse Senate Bill #693 and House Bill HR 1495 as an equitable solution for resolving the continuing conflict between the United States Government and Swain County, North Carolina. This problem has continued long enough, and these legislative measures can finally rectify the situation. A Resolution through these reccommended actions will directly and postively benefit both parties involved. Consequently, I urge you to consider and support these proposed bills.

With kindest regards, I am,

Sincerely,

Wayne Hooper

Wayne Hooper, Chairman
Jackson County Board of Commissioners

WH/jsj

Enc: 1

TOWN OF BRYSON CITY

Clarke-Sanford Bills
Swain County and Federal Government
1943 NorthShore Road Agreement

Alderman moved that the following resolution be adopted:

BE IT RESOLVED that the Bryson City Board of Aldermen support the Swain County Board of Commissioners in their resolution in favor of a settlement of the 1943 agreement between Swain County and the Federal Government through which the Tennessee Valley Authority took Swain County acreage in the building of Fontana Dam with the agreement to build a road from Bryson City through the 44,000 acres to Deals Gap.

BE IT FURTHER RESOLVED we concure with Swain County's decision.

P R Bennett Jr
P. R. Bennett, Jr., Mayor
TOWN OF BRYSON CITY

Atttest:
Virginia M. Bridges
Virginia M. Bridges, Town Clerk
TOWN OF BRYSON CITY

The following Mayor and Aldermen voting.

In the affirmative: Mayor, P. R. Bennett, Jr.
Member, Diana B. Clampitt
H. L. Bacon

In the negative: Georgianna M. Carson
J. M. Trawick

Minutes of June 15, 1987 Meeting

STATEMENT OF JOSEPH A. PACHNOWSKI

I would respectifully request that any legislation favorably reported by this subcommittee include the following as a minimum:

1.

A $9.5 million cash settlement. To insure that, I would say payment of the $9.5 million should be a prerequisite to any acreage, being designated wilderness.

2.

Forgiveness of the Farmers Home Administration High School indebtedness.

3.

Reasonable motor vehicle access to cemeteries located within the 44,000-acre tract.

4.

Management practices of the Great Smoky Mountains National Park shall not interfere with present and future use of Fontana Lake.

5.

Prohibit the closing of Highway 441 from regular traffic to and from Gatlinburg-Cherokee and provide unrestricted private vehicle access to and from Cherokee-Gatlinburg.

6.

The concept or implementation of any buffer zones extending beyond the boundaries of the Great Smoky Mountains National Park be prohibited.

7.

Any interference with adjacent private property rights is unacceptable.

8.

Such other and further relief as your subcommittee deems just and proper.

This the 18th day of June, 1987.

JOSEPH A. PACHNOWSKI

P.O. BOX 148

704/497-5950

Whittier Elementary School

WHITTIER, NORTH CAROLINA 28789

OFFICE OF THE PRINCIPAL

June 17, 1987

My name is Lambert Wilson. I am a native of Swain County and am presently employed by the Swain County Board of Education as the Principal of Whittier Elementary School.

My interest in the settlement of the 1943 North Shore controversy between Swain County and the United States Government is two fold. Primarily, I am concerned for the young people of Swain County. My second interest is that a settlement be reached that would benefit Swain County citizens indefinitely.

The children of today are the future for Swain County. The Swain County school system is currently educating students in facilities that are outdated, in bad repair, and in some instances condemned. Regardless of the agreements made in the past, it is time the citizens of Swain County look at the present and the future. As an educator, I strongly believe that the the students of Swain County deserve the best educational opportunities possible. A settlement consisting of a 9.5 million dollar payment to Swain County and the forgiveness of the Swain County High School debt would help insure new educational facilities and programs for our children.

My concern for the education of Swain County students does not prejudice me against other special interest groups. The settlement should continue to guarantee the access to the cemeteries that is presently provided by the National Park Service. The agreement should also allow for continued use of Fontana Lake and should prohibit the closing of Highway 441 from Cherokee to Gatlinburg.

The settlement of this controversy is vital to the future of Swain County. I urge the Federal Government to consider all issues and to settle this controversy as expediently as possible.

Thank you for your consideration of my feelings.

Lambert G. Wilson
Principal
Whittier Elementary School

PAGE 1 -REMARKS- VERAYLE CALHOUN FRANKS

STATEMENT BY VERAYLE CALHOUN FRANKS, FORMER ADMINISTRATOR OF THE SWAIN COUNTY HOSPITAL AND A SWAIN COUNTY NATIVE.

RE: SB 693

JUNE 23, 1987, WASHINGTON D.C.

I, VERAYLE CALHOUN FRANKS, AM A SWAIN COUNTY NATIVE, BORN ON HAZEL CREEK AND SPENT THE EARLY PART OF MY LIFE THERE.

MY GRANDFATHER CALHOUN WAS ONE OF THE FIRST THREE SETTLERS ON HAZEL CREEK. HE RAISED HIS FAMILY THERE. HE AND HIS THREE SONS BECAME THE LARGEST LAND OWNERS IN THE AREA. WHEN THE POSSIBILITY OF THE GREAT SMOKY MOUNTAIN NATIONAL PARK AND THE TVA (FONTANA) DAM PROJECTS BECAME A REALITY, THE CALHOUNS WERE THE FIRST TO MAKE THEIR LAND AND HOMES AVAILABLE TO THE STATE OF NORTH CAROLINA FAR BELOW THE MARKET VALUE. SOME ACREAGE WAS CONTRIBUTED AS A GESTURE OF COOPERATION. THEY FELT THESE TWO PROJECTS WOULD BOOST THE ECONOMY OF SWAIN COUNTY GREATLY, AND THE FUTURE OF THE COUNTY WOULD BECOME MORE SECURE FINANCIALLY EVEN WITH ONLY 16% TAXABLE PROPERTY LEFT. THEY ALSO ENCOURAGED THE OTHER NATIVES AND LANDOWNERS TO MAKE THEIR LAND AVAILABLE WITHOUT CONTROVERSY.

NEEDLESS TO SAY NO ONE WOULD RATHER SEE AN ACCESS ROAD INTO THIS AREA MORE THAN I. THIS WOULD GIVE ALL THE AMERICAN PEOPLE AN OPPORTUNITY TO SEE AND ENJOY THE MOST BEAUTIFUL, UNUSUAL AND UNIQUE PART OF THE GREAT SMOKY MOUNTAIN NATIONAL PARK. HOWEVER, I REALIZE THIS IS PROBABLY NOT FEASIBLE AND, WILL NEVER BECOME A REALITY, DUE TO THE STRONG OPPOSITION. THEREFORE, BECAUSE OF THE WEAK ECONOMY AND THE LOSS OF 84% OF THE TAXABLE PROPERTY OF THE COUNTY, I STRONGLY RECOMMEND THE APPROVAL OF THE CLARK AND SANFORD-SASSER BILL. WITH THIS MONEY AND THE TERMS OF EXPENDITURES, ALSO THE CANCELLATION OF THE HIGH SCHOOL BONDS, THE PEOPLE OF THE COUNTY WILL ENJOY LESS TAX BURDENS AND BE ABLE TO PLAN FOR THE FUTURE.

PAGE 2 -REMARKS- VERAYLE CALHOUN FRANKS

MAY I SUGGEST THAT THE PARK COMMISSION BE REQUIRED TO FURNISH SAFER AND MORE COMFORTABLE TRANSPORTATION INTO THE HAZEL CREEK AREA. I HAVE GONE ON NUMEROUS SCHEDULED "CEMETERY TRIPS" DURING THE PAST FEW YEARS. I'M AMAZED THAT OUR GOVERNMENT WOULD ALLOW THE ROADS, THAT WERE AT ONE TIME IN GOOD CONDITION FOR MOTOR TRAVEL, TO BECOME THE HAZARDOUS CONDITIONS THAT NOW EXISTS. SEVERAL HUNDRED PEOPLE ARE TRANSFERRED OVER THESE MAKE SHIFT ROADS ANNUALLY. I COMMEND THE PARK EMPLOYEES HANDLING THE VEHICLES FOR THEIR EXPERTISE AND APPARENT CONCERN FOR THE SAFETY AND COMFORT OF THEIR RIDERS. COME VISIT, UNANNOUNCED, ON A SCHEDULED "CEMETERY DAY", YOU WILL UNDERSTAND MY CONCERN.

AGAIN, I STRONGLY RECOMMEND THE PASSAGE OF THE CLARK AND SANFORD-SASSER BILL.

THANK YOU FOR LISTENING.

MOST SINCERELY,

Verayle C Franks

VERAYLE CALHOUN FRANKS
BRYSON CITY, N.C. 28713

PAGE 1 -REMARKS- CLAUDE DOUTHIT

STATEMENT BY CLAUDE DOUTHIT, NATIVE OF SWAIN COUNTY AND RETIRED EMPLOYEE OF THE TENNESSEE VALLEY AUTHORITY, BRYSON CITY, NORTH CAROLINA.

TO: CHAIRMAN AND DISTINGUISED MEMBERS OF THE COMMITTEE

ISSUE: SB 693 - JUNE 23, 1987

INTRODUCTION: I AM CLAUDE DOUTHIT, AGE 58, A NATIVE CITIZEN OF SWAIN COUNTY, NORTH CAROLINA. I AM A RETIRED EMPLOYEE OF THE TENNESSEE VALLEY AUTHORITY. I HAVE TWO SISTERS BURIED ON THE NORTH SHORE OF FONTANA RESERVOIR.

FACT 1: AS PART OF THE 1943 FONTANA AGREEMENT, A ROAD WAS PROMISED WHICH WOULD LINK BRYSON CITY AND FONTANA DAM, TO BE CONSTRUCTED BY THE NATIONAL PARK SERVICE. THIS ROAD WAS TO BE CONSTRUCTED WHEN AND IF THE CONGRESS OF THE UNITED STATES APPROPRIATED FUNDS FOR ITS CONSTRUCTION. THE ROAD WAS PROMISED IN EXCHANGE FOR 44,000 ACRES OF LAND WHICH WERE TO BE INCLUDED IN THE GREAT SMOKY MOUNTAIN NATIONAL PARK,[1] SINCE IT WAS BEING REMOVED FROM SWAIN COUNTY'S TAX BASE.

FACT 2: FORTY CEMETERIES, CONTAINING 2,043 GRAVES, WERE AFFECTED BY THE FONTANA PROJECT. REMOVAL AGREEMENTS WERE EXECUTED WITH THE NEXT-OF-KIN FOR GRAVES TO BE LEFT AT THEIR LOCATION. NO IDENTIFICATION, REMOVAL, OR [2] REMAIN AGREEMENTS COULD BE EXECUTED FOR THE OTHER 93 GRAVES.

REQUEST: BASED ON THE 1943 FONTANA AGREEMENT, I ASK THIS COMMITTEE TO RECOGNIZE AS FACT (1) THAT A ROAD WAS PROMISED TO LINK BRYSON CITY AND FONTANA DAM, AND (2) THAT 40 CEMETERIES WERE AFFECTED.

PAGE 2 -REMARKS- CLAUDE DOUTHIT

OBSERVATION: 1. NO ROAD HAS BEEN COMPLETED, NOR WAS A ROAD PROMISED FOR THE SPECIFIC PURPOSE OF ACCESS TO CEMETERIES.

2. I HAVE TWO SISTERS BURIED ON THE NORTH SHORE OF FONTANA LAKE, BUT I DO NOT CRY "FOUL" AND SAY I HAVE BEEN MISTREATED BY THE FEDERAL GOVERNMENT. I HAVE NEVER BEEN DENIED ACCESS TO VISIT THEIR RESTING PLACE. I AM NOT REPRESENTED BY, AND I DO NOT BELONG TO, A CEMETERY ASSOCIATION. SINCE AGREEMENTS WERE EXECUTED BY THE NEXT-OF-KIN TO LEAVE 901 GRAVES WHERE THEY WERE, I FEEL THESE AGREEMENTS SHOULD BE HONORED.

RESOLUTION: AS A RESOLUTION OF THE FOREGOING, I PROPOSE THE FOLLOWING:

1. A CASH SETTLEMENT TO SWAIN COUNTY IN THE AMOUNT OF $9.5 MILLION.

2. FORGIVENESS OF THE FARMERS HOME ADMINISTRATION LOAN SECURED TO BUILD SWAIN COUNTY HIGH SCHOOL.

APPENDIXES: APPENDIX A - LETTER TO MR. PETE LAWSON 9/26/80
APPENDIX B - LETTER TO MR. WILLIAM HENDON 2/23/81
APPENDIX C - ANSWER FROM MR. WILLIAM HENDON 3/24/81

CONCLUSION: MAY I URGE THIS COMMITTEE TO BASE IT'S FINDINGS ON FACT RATHER THAN ON THE EMOTIONS OF PERSONS WHO MAY HAVE SPECIAL INTERESTS.

RESPECTFULLY SUBMITTED,

Claude M. Douthit
CLAUDE M. DOUTHIT
P.O. BOX 184
BRYSON CITY, N.C. 28713

[1] COMPREHENSIVE REPORT ON THE PLANNING, DESIGN, CONSTRUCTION, AND INITIAL OPERATION OF THE FONTANA PROJECT, TECHNICAL REPORT NO. 12, THE FONTANA PROJECT.: U.S. GOVERNMENT PRINTING OFFICE.

[2] IBID.

APPENDIX A

Bryson City, NC 28713
September 26, 1980

Mr. Pete Lawson, Editor
THE SMOKY MOUNTAIN TIMES
Bryson City, NC 28713

Dear Mr. Lawson:

In 1943 an agreement was negotiated with the State of North Carolina, Swain County, the Department of the Interior, and the Tennessee Valley Authority. This agreement was negotiated as a result of the building of Fontana Dam. This is the year 1980 and no satisfactory solution has been reached regarding it. Therefore, I feel it is past time for it to be resolved. The question is what the equitable solution would be for the citizens of Swain County. Before any solution can be reached we must recognize facts which surround it. Therefore, I am presenting certain facts taken from a Comprehensive Report on the Planning, Design, Construction, and Initial Operations of the Fontana Project, Technical Report No. 12, The Fontana Project: United States Government Printing Office, Washington, D.C.

A total of 68,291 acres, including 15,036 acres conveyed by the Aluminum Company of America, was acquired for the Fontana Project. Exclusive of the Aluminum Company properties, a total of 1,064 tracts was secured for the project—88.4 percent by voluntary sale; 3.4 percent by condemnation because the owners refused to sell at appraised value; and 8.2 percent by condemnation in order to secure good title. Privately owned property included 915 tracts of 52,294 acres with a total land and improvement value of $1,690,169 which the property owners received. Federal purchase of this land removed from local property tax rolls a total assessed value of $787,375 and total average annual county and city tax levies of $12,700—Graham County's share was $160,675 with a levy of $2,006; Swain County's share $626,700 with a levy of $10,654; and Bryson City's share $2,560 with a levy of $40.

The Fontana Project removed 1,311 families. Of these families, 711 had moved into the area temporarily seeking employment of the Fontana Project, while 600 families were permanent residents before construction began. Only 200 of the 600 permanent families were removed from the 44,000 acres which was turned over to the Smoky Mountains National Park. The 600 original families in the area of purchase were as follows: farm families, owners, 99; tenants 82; and non-farm families, owners, 103; tenants 316. Families owning land totaled 202 and tenants totaled 398. Of the 600 original families who left the reservoir area, 269 relocated in the county of original residence and 258 elsewhere within the state. Of the 711 transient families, many of whom came from other states, 184 relocated within the two counties. After relocation, there was a 32 percent increase in home ownership.

Mr. Pete Lawson
Page 2
September 26, 1980

Forty cemeteries, containing 2,043 graves, were affected by the Fontana Project. Removal agreements were executed with the next-of-kin for removal of 1,049 graves to other cemeteries; and 901 remain agreements were executed with next-of-kin for graves to be left at their locations. No identification, removal, or remain agreement could be executed for the other 93 graves.

Swain County's debt in 1940 was $1,436,030. $700,000 of this original debt was incurred by the Forney Creek Road District. Provision was made at that time for $400,000 toward retiring the Swain County debt. The Department of the Interior promised to construct a road along the north shore of Fontana Reservoir to link Bryson City and Fontana Dam, if and when the Congress appropriated the necessary funds.

I believe a solution to the problem can only be reached if we are willing to intelligently assess answers to the following questions:

1. What and how much was lost by the county?
2. How were the property owners affected?
3. Were there just agreements made with next-of-kin in regard to grave removal or remain?
4. Can a promised road be constructed if the funds have not been appropriated by the Congress?
5. 37 years have transpired with no solution to this problem. Will we choose to ignore the facts and ask for more than we know we will ever get, or will we encourage our present Commissioners (who are now negotiating for as equitable a settlement as they can get to this problem.)?

I hope each of you, as a citizen of this county, will study these facts as quoted and call on those who are in authority to negotiate for a quick solution to this longstanding problem. Remember that these facts have been in Washington since the very beginning of this problem.

Sincerely yours,

Claude M. Douthit

APPENDIX B

P.O. Box 184
Bryson City, NC 28713
February 23, 1981

Mr. William M. Hendon, M. C.
428 Cannon Office Building
Washington, DC 20510

Dear Mr. Hendon:

SUBJECT: 1943 Fontana Agreement

After reading the article by Skip Taylor, Staff writer, The Asheville Citizen and Times, February 21, 1981, I am quite disturbed at the statement concerning the Swain County North Shore Road, which he attributes to you.

Skip Taylor quotes you as follows regarding the cemeteries and those graves which were left when Fontana Reservoir was filled: "The government promised a road for access to the graves of their ancestors, and something should be done." "Those people feel strongly, and with justification about the issue." I can immediately see that you have either been ill-advised or that you have not done the necessary homework in researching this subject; otherwise, you would make no such statements. In reading the contracts entered into by the Department of the Interior, The Tennessee Valley Authority, the state of North Carolina, and Swain County, I find no mention of a promise to build road access to cemeteries.

Forty cemeteries, containing 2,043 graves, were affected by the Fontana Project. Removal agreements were executed with the next-of-kin for removal of 1,049 graves to other cemeteries; and 901 remain agreements were executed with next-of-kin for graves to be left at their locations. No identification, removal, or remain agreements could be executed for the other 93 graves. The next-of-kin who executed the 901 remain agreements were never promised a road to those cemeteries, but were given the choice of the graves being removed to other locations or remaining where they were.

True, a road was promised to link Bryson City and Fontana Dam, by the Department of the Interior through its National Park Service (when and if the funds to build it were appropriated by the Congress) as a part of the 1943 Fontana Agreement. This road was promised in exchange for the 44,000 acres of land which were to be included in the Smoky Mountains National Park since it was being removed from Swain County's tax base.

While you were campaigning for your seat in Congress, and on your wagon train trek through Swain County, I know you were taken to some of the cemeteries on the North Shore of Fontana Lake, which is now in the National Park. I am sure you were told by some of these good-intentioned people that they were promised these roads to the cemeteries, but nothing could be further from what I believe to be the truth. Please also remember that the North Shore Cemetery Association was never formed until this controversy was some 33 years old. The North Shore Cemetery Association is only about five or six years old. Sad to say, most of these people are not very well informed on this subject, but are only moved after 33 years to misrepresent the facts surrounding the issue. Quite a number of the group do not live in Swain County and most of those who do are about third or fourth generation removed from those who were burried in the cemeteries. In most cases, you will find when people speak only from an emotional standpoint they tend to ignore the true facts.

In order that you may be better informed regarding the 1943 agreement, I am sending you a letter which was written by me and published in our local paper which states many facts regarding the 1943 agreement. Perhaps you would want to visit the Library of Congress for the Technical Report to which it refers, since this is the only source of information on which you can definitely rely. If you are unable to find this report there, I would be happy to share my copy.

I also notice in the Asheville Citizen article "that you have asked Interior Secretary Watt to come to Bryson City" in regard to this matter. May I suggest, if you or Secretary Watt do visit Bryson City, you should ask to be guided to the area involved by some knowledgeable people who are well versed on the facts of the 1943 Fontana Agreement. I doubt that you can find two better-versed people than Mr. William T. Rolen and myself. Mr. Rolen is a retired Park Ranger who spent over 30 years in the area. I, myself, worked the area for 25 years with the Tennessee Valley Authority. We are both eminently familiar with this long-standing controversy from its very inception to the present day. Neither he nor I have to rely on what "Aunt Sally" or "Uncle John" told us for our facts. We both have first-hand knowledge of this subject. Why should you or Secretary Watt consider meeting with a group who would generally be speaking from an emotional standpoint and know very little of the facts surrounding the issue?

I would also urge you to re-introduce the legislation that former Congressman Gudger introduced in the past Congress, as I believe it to be fair for the people of Swain County and the United States of America.

Your comments with regard to the questions which I have raised would be more than welcome so that we may work together for a solution to this long-standing problem.

Sincerely yours,

Claude M. Louthit

Enclosures

BILL HENDON
11TH DISTRICT, NORTH CAROLINA

APPENDIX C

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 24, 1981

Mr. Claude M. Douthit
P.O. Box 184
Bryson City, North Carolina 28713

Dear Mr. Douthit:

Thank you for providing me with some useful information regarding the 1943 Swain County Agreement. I appreciate your interest in this matter as well as your views.

I am certain you will agree that a final solution to this problem is long overdue. I am studying the entire history of the 1943 Agreement, as well as the understanding reached late last year. It is my hope that a settlement can be made very soon.

I appreciate your insight into this matter and will certainly bear your observations in mind when considering a settlement to the Swain County dispute.

Best wishes.

Sincerely,

Bill Hendon

BILL HENDON
Member of Congress

BH/jp

STATEMENT BY JOSEPH BARRY HIPPS, DIRECTOR, CHEROKEE HISTORICAL ASSOCIATION, CHEROKEE, NORTH CAROLINA.

RE: SB 693

JUNE 23, 1987, WASHINGTON, D.C.

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THIS COMMITTEE:

MY NAME IS BARRY HIPPS. I AM A RESIDENT OF CHEROKEE, NORTH CAROLINA, AND SERVE AS THE DIRECTOR OF THE CHEROKEE HISTORICAL ASSOCIATION AND WAS THE FORMER COUNTY ADMINISTRATOR OF SWAIN COUNTY. SENATE BILL 693 AND HOUSE BILL HR 1495 BOTH CONTAIN LANGUAGE ADDRESSING THE LONGSTANDING DISPUTE BETWEEN SWAIN COUNTY AND THE FEDERAL GOVERNMENT OF THESE UNITED STATES, ARISING FROM AN AGREEMENT DATED JULY 30, 1943.

FAILURE OF THE FEDERAL GOVERNMENT TO TAKE THE NECESSARY STEPS TO FULFILL ITS PART OF THE 1943 AGREEMENT HAS MEANT MANY LONG, BITTER YEARS OF FRUSTRATION FOR SWAIN COUNTY. FORTY-FOUR YEARS IS LONG ENOUGH FOR THE GOOD PEOPLE OF SWAIN COUNTY TO WAIT.

THE EXTREMELY HIGH PERCENTAGE OF FEDERAL LAND OWNERSHIP IN SWAIN COUNTY, IN EXCESS OF 84%, SEVERLY RESTRICTS THE COUNTY'S PROPERTY TAX BASE. IN MANY INSTANCES, SWAIN COUNTY HAS BEEN FINANCIALLY UNABLE TO PROVIDE ANY MORE THAN A BARE MINIMUM LEVEL OF NEEDED SERVICES AND PUBLIC FACILITIES FOR HER CITIZENS. FACILITIES, SERVICES, AND A POSITIVE FEELING OF GENERAL PROSPERITY TAKEN FOR GRANTED IN MANY COMMUNITIES ACROSS OUR REGION, STATE, AND NATION, HAVE SEEMED BEYOND THE REACH OF SWAIN COUNTY. NOW IS THE TIME TO BEGIN TO REVERSE THIS SITUATION.

I RESPECTFULLY REQUEST THAT THE MEMEBERSHIP OF THIS COMMITTEE, AND YOUR COLLEAGUES IN THE U.S. SENATE AND HOUSE OF REPRESENTATIVES, LEND

YOUR STRONGEST POSSIBLE SUPPORT TO LEGISLATIVE LANGUAGE PROVIDING FOR THE AUTHORIZATION AND APPROPRIATION OF THE SUM OF $9.5 MILLION DOLLARS FROM THE TREASURY OF THE UNITED STATES TO SWAIN COUNTY. I SEEK ALSO YOUR SUPPORT FOR LANGUAGE RELIEVING SWAIN COUNTY OF ANY FURTHER LIABILITY TO MAKE PAYMENTS ON THE FARMER'S HOME ADMINISTRATION LOAN ON THE SWAIN COUNTY HIGH SCHOOL.

IN MY VIEW, APPROPRIATION OF THE CASH PAYMENT AND LOAN FORGIVENESS MUST BE A PREREQUISITE TO THE PLACING OF ANY LANDS IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK UNDER THE PROTECTION OF THE WILDERNESS ACT OF 1964.

FURTHER, I EARNESTLY REQUEST THAT ANY LEGISLATION FAVORABLY REPORTED BY THIS COMMITTEE EMBODY THE FOLLOWING POINTS:

(1) AT A MINIMUM, GUARANTEED CONTINUATION OF PRESENT ACCESS, CEMETARY MAINTENANCE, AND MOTOR VEHICLE TRANSPORTATION ARRANGEMENTS TO CEMETARIES LOCATED WITHIN THE 44,000 ACRE TRACT;

(2) MANAGEMENT PRACTICES OF THE GREAT SMOKY MOUNTAIONS NATIONAL PARK SHALL IN NO WAY INTERFERE WITH OR RESTRICT ANY PRESENT OR FUTURE RECREATIONAL OR OTHER USES OF FONTANA LAKE;

(3) STRICTLY PROHIBIT THE CLOSING OR ANY RESTRICTION OF PRIVATE VEHICLE USE OF NEWFOUND GAP ROAD OFTEN REFERRED TO AS HIGHWAY 441 ALONG ITS ENTIRETY FROM CHEROKEE, N.C. TO GATLINBURG, TENN.;

(4) STRICTLY PROHIBIT THE CLOSING OF ANY OTHER ROADS OR TRAILS WITHIN THE PARK WHICH HAVE BEEN OPEN TO PUBLIC USE AT ANY TIME WITHIN THE PAST YEAR;

(5) STRICTLY PROHIBIT THE PLANNING, IMPLEMENTATION, OR ENFORCEMENT OF ANY "BUFFER ZONES" EXTENDING BEYOND THE LEGAL BOUNDARIES OF THE PARK. ANY INTERFERENCE BY THE PARK WITH ANY ADJACENT PRIVATE PROPERTY RIGHTS IS UNACCEPTABLE:

(6) SUCH OTHER RELIEF AS THIS COMMITTEE DEEMS SUITABLE AND APPROPRIATE WHICH HAS REASONABLE PROSPECTS FOR RATIFICATION BY BOTH THE U.S. SENATE AND THE HOUSE OF REPRESENTATIVES.

I THANK YOU FOR YOUR THOUGHTFUL CONSIDERATION AND EFFORTS ON BEHALF OF SWAIN COUNTY IN THIS MATTER.

JOSEPH BARRY HIPPS
Joseph Barry Hipps
DIRECTOR, CHEROKEE HISTORICAL ASSOCIATION
CHEROKEE, NORTH CAROLINA

ADDRESS: P.O. BOX 1677
CHEROKEE, N.C. 28719

PAGE 1 -REMARKS- JIMMY L. PARK

STATEMENT BY JIMMY L. PARK, OUT-GOING PRESIDENT OF THE PARENT TEACHER ORGANIZATION OF THE WHITTIER ELEMENTARY SCHOOL.

RE: SB 693

JUNE 23, 1987, WASHINGTON, D.C.

MR. CHAIRMAN, MY NAME IS JIMMY L. PARK. I AM THE OUT-GOING PRESIDENT OFTHE PARENT-TEACHER ORGANIZATION OF THE WHITTIER ELEMENTARY SCHOOL, HAVING SERVED FOR FOUR YEARS. THE WHITTIER P.T.O. IS A SPECIAL INTEREST GROUP AND OUR SPECIAL INTEREST IS THE YOUTH OF SWAIN COUNTY.

OTHER MEN, WOMEN, AND ORGANIZATIONS HAVE BEEN ELOQUENT IN STATING HOW THEY FEEL ABOUT OUR YOUNG PEOPLE AND THEIR FUTURE IN SWAIN COUNTY. THE WHITTIER SCHOOL PARENT-TEACHER ORGANIZATION UNANIMOUSLY SUPPORTS THE SETTLEMENT OF THE 1943 NORTH SHORE CONTROVERSY. IT IS THE CONSENSUS OF THE ORGANIZATION THAT THE MONETARY SETTLEMENT WOULD HAVE A VERY POSITIVE EFFECT ON THE PRESENT AND FUTURE OF SWAIN COUNTY'S YOUTH. WITHOUT THE SETTLEMENT, OUR EDUCATIONAL FACILITIES WILL CONTINUE TO DETERIORATE WHILE FUNDING FOR NEW STRUCTURES, IF AVAILABLE WILL CAUSE UNDUE HARDSHIP ON A COUNTY WHOSE TAX BASE IS DRASTICALLY SMALL AND WHOSE UNEMPLOYMENT RATE IS DRASTICALLY HIGH.

THE WHITTIER P.T.O. WOULD LIKE TO URGE THE UNITED STATES GOVERNMENT TO SETTLE WITH SWAIN COUNTY SO THAT OUR YOUNG PEOPLE WILL ULTIMATELY BENEFIT.

THANK YOU VERY MUCH.

SINCERELY,

Jimmy L. Park

JIMMY L. PARK
WHITTIER, N.C.

STATEMENT OF RONALD A. FORESTA, KNOXVILLE, TENNESSEE, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVE WATERS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
JUNE 23, 1987

I am on the board of directors of Tennessee Citizens for Wilderness Planning and my organization strongly supports S. 693, the Smokies wilderness bill introduced by Senators Gore of Tennessee and Sanford of North Carolina. We are a group of several hundred Tennessee citizens who, as our name implies, are interested in protecting outstanding natural areas in our region. We have always been concerned with the Great Smoky Mountains National Park, which most of us enjoy and many of us know well. In fact, it was concern over proposals to build a new road through the park that prompted the formation of our organization almost twenty years ago.

The bill before you is a good one. It will help insure that the park remains what it was intended to be when it was founded fifty years ago. Specifically, it will strengthen the protection of areas long managed as wilderness - and currently designated as natural environment by the park's management plan. At the same time the bill is a carefully crafted to accommodate those who might be inconvenienced by the wilderness designation. It guarantees access to the old cemeteries, which is reasonable and just. It also compensates Swain county for any losses it might suffer from the prohibition of roads in the wilderness area by paying it $9,500,000 and forgiving an outstanding school construction loan from the Farmers Home Administration. This too is fair.

We think the bill sponsored by Senator Helms of North Carolina (S.695) is an unwise one. It omits key areas from the designated wilderness. Road construction or other development in these excluded areas, something very likely to happen eventually if the Helms bill passes, would have a serious negative impact on the areas it does designate as wilderness. The Helms bill would therefore be worse than no bill at all and we could not support it.

The first hearings on wilderness in this area were conducted back in 1966 and since then the issue has absorbed an enormous amount of time and energy. Slowly, however, a sound legislative package was put together. This bill represents that package and embodies all the work and compromise of the last two decades. In its present form, it will finally put this issue to rest in a way which answers all reasonable objections and insures that there are no losers. We therefore urge you to support it.

1

FTR
6-23

SENATE
JUN 23 1987

Statement for the Official Hearing Record - June 23, 1987
Great Smoky Mountains National Park Wilderness Designation
Senate Energy and Natural Resources Committee
308 Dirkson Senate Office Bldg.
Washington, D.C. 20510

As a native of East Tennessee and lifelong enthusiast for the preservation of wildernesses in our national park system, I am writing to urge your support of S.R. 693/H.R. 1495 - the SASSER -SANFORD BILL in the Senate/Clarke- Duncan Bill in House - which would establish wilderness preventing the construction of roads on the northshore of Fontana Lake lying within the Great Smoky Mountains National Park.

A SINE QUO NON of any legislation dealing with the Great Smoky Mountains National Park is that there be NO FURTHER ROAD CONSTRUCTION ALONG THE NORTH SHORE OF FONTANA LAKE IN THE GREAT SMOKY MOUNTAINS NATIONAL PARK AND THAT THIS LONG STANDING CONTROVERSY BE RESOLVED NOW UNAMBIGUOUSLY BY THE INCLUSION OF THE AREA (44,000 acres) THROUGH WHICH THIS CONTROVERSAL ROAD WOULD PASS, WITHIN THE OFFICIALLY DESIGNATED GREAT SMOKY MOUNTAIN NATIONAL PARK WILDERNESS. SENATOR HELMS' BILL S.R. 695 SHOULD BE DEFEATED BECAUSE IT EXCLUDES DECEPTIVELY THE VERY AREA IN WHICH THIS CONTROVERSAL, GENERALLY UNPOPULAR , ROAD COULD BE BUILT, THEREBY PREVENTING THE RESOLUTION OF THIS ISSUE OF OVER 40 YEARS DEBATE BY LEAVING AN "EMBRYO" FOR FUTURE PROTRACTED CONTROVERSY.

S.R. 693/H.R. 1495 as proposed is good legislation which could be made even better by the following amendments:

1.Wilderness for the Great Smoky Mountains National Park as proposed shows as a boundary between two large contiguous wilderness areas, a boundary line along a Parson's Branch road; this road is not paved, is closed from time to time due to flooding, blown down trees, and is little better than a single lane JEEP TRAIL. Such a BUREAUCRATIC ARTIFACT SPLITTING ONE WILDERNESS AREA INTO TWO CONTIGUOUS WILDERNESS AREAS IS A NONSENSE FEATURE SERVING NO REASONABLE PURPOSE FOR ANY FACTION UNLESS SUCH A "BOUNDARY" HAS BEEN DELIBERATELY PUT INTO LEGISLATION TO ULTIMATELY SERVE AS A "SEED" FOR FUTURE CONTROVERSAL ROAD DEVELOPMENT. MERGE TWO WILDERNESS AREAS INTO ONE BY REMOVING THIS NEEDLESS, NONSENSICAL "BOUNDARY" INCLUDE PARSON'S BRANCH ROAD IN WILDERNESS BY COMBINING THE TWO WILDERNESS AREAS AREA OF WHICH THE "ROAD" IS A COMMON BOUNDARY, INTO ONE WILDERNESS AREA.

2.The National Park Service should be authorized to - indeed ordered to try - exterminate the wild boar which is an exotic (NOT native) animal in the Great Smoky Mountains National Park. This animal which in the Great Smokies is freed from its natural predators (viz. the tiger and wolf in its Asiatic native home), is currently threatening the extinction of some native plants of the Great Smokies and it spreads the waterborne disease LEPTOSPIROSIS - also present in some native animals but there less offensive/threatening - which disease is sometimes fatal to man. SHOULD WE NOT BE ABLE TO SAFELY DRINK FROM STREAMS IN THE WILDERNESS AREAS OF OUR NATIONAL PARKS?

3.MAKE FONTANA LAKE - which forms a large part of the southwestern boundary of the Great Smoky Mountains National Park - A CONSTANT LEVEL LAKE. THE level of Fontana Lake over the years of its existence varied over 230 vertical feet; and over the last 14 years has had an average vertical fluctuation of 75 feet - all acting to create an UGLY DRAWDOWN BELT AND SUBJECTING THOUSANDS OF ACRES OF LAKE AREA/BOTTOM TO INCREASED RATES OF EROSION by virtue of alternatingly flooding and draining which makes the establishment of protective vegetative cover on the water edge impossible - thus increasing the rate of lake siltation and thereby shortening the lifetime of Fontana Dam. THE LAKE IS BEING TURNED INTO A MUD PLANE. WERE FONTANA LAKE OF CONSTANT LEVEL THE MOUNTAINS VIEWED ACROSS FONTANA LAKE WOULD BE ONE OF THE LOVELEST VISTAS IN THE WHOLE PARK SYSTEM.

Sincerely, Dan Hale
Dan Hale

240 Scott St. N E
Knoxville, Tenn. [illegible]

FTR
6/23

APPALACHIAN TRAIL
CONFERENCE
WASHINGTON & JACKSON STS
P.O. BOX 807
HARPERS FERRY, WV 25425-0807
TELEPHONE (304) 535-6331

TESTIMONY BEFORE: Senate Subcommittee on Public Lands, National Parks and Forest

RE: S. 693, Designating Certain Lands in the Great Smoky Mountains National Park As Wilderness

SUBMITTED BY: Appalachian Trail Conference

DATE: June 23, 1987

Dear Senator Bumpers:

The Appalachian Trail Conference is a private, nonprofit, educational organization composed of approximately 19,000 members as well as over 60 hiking and outing clubs representing an estimated 60,000 individuals. For more than 60 years, the Conference has coordinated private efforts to develop, maintain, and preserve the Appalachian Trail for the benefit of millions of Americans.

On this occasion, and on behalf of the Appalachian Trail Conference, I wish to express our strong support for S. 693 designating certain lands in the Great Smoky Mountains National Park as wilderness.

As you know, the Appalachian Trail was one of our nation's first national scenic trails. It is a continuous, marked footpath which traverses the Appalachian Mountain chain from Maine to Georgia for a distance of more than 2,100 miles. Along its route, the Trail crosses eight national forests, six units of the national park system, and more than 60 other public land areas in 14 states.

Since the early 1920's, when the concept of an Appalachian Trail was first proposed, the Trail has been viewed as a means for the people of the heavily populated eastern United States to gain access to the vast array of wild and scenic areas along its route. In keeping with this view, the Appalachian Trail Conference has consistently sought to preserve the many remote and primeval areas, as well as the great diversity of landscapes, throughout the range of the Trail.

Given this background, it is not surprising that we have generally supported the concept of eastern wilderness designation. Indeed, we believe that the preservation of eastern wilderness areas in the vicinity of the Appalachian Trail can significantly enhance the recreational experience of Trail users. We also believe that the Trail and related facilities represents a compatible and complementary use within such areas.

Raymond F. Hunt
Chairman
Earl Jette
Vice Chair - New England
David L. Raphael
Vice Chair - Mid States
Margaret C. Drummond
Vice Chair - Southern

Arthur P. Foley
Treasurer
David B. Field
Secretary
Charles Sloan
Corresponding Secretary

New England Region
Ralph H. Goodno, Jr.
Lester C. Kenway
Edward N. Lewis
Harry T. Peet, Jr.
Stephen K. Rice
Colin Tait

Middle Region
JoAnn L. Dolan
James C. Douglas
Craig Dunn
Claude R. Epps, Jr.
Thurston Griggs
Lawrence J. Gross

Southern Region
James L. Botts
V. Collins Chew
Sara H. Davis
David Jenkins
Reese F. Lukei, Jr.
Hazel Monroe

David N. Startzell
Executive Director

With respect to the Great Smoky Mountains National Park, the Appalachian Trail extends along the crest of the main ridgeline for nearly the full length of the Park--a distance of approximately 69 miles. Hikers along this portion of the Trail are rewarded with commanding views, extraordinary natural resource diversity, physical challenge, and the opportunity for primitive, low-impact camping at 13 rustic shelters.

Vistas at such peaks and open areas as Clingmans Dome (the highest point on the Appalachian Trail), Spence Field, Silers Bald, and Charlie's Bunyon offer hikers panoramic views encompassing virtually the entire park. And, the 69-mile section of the Trail is crossed by only one road. Thus this section of Trail is among the most primitive along its entire length. It is also among the most popular sections for the millions of visitors who use the Trail each year.

The Appalachian Trail Conference recognizes the Great Smoky Mountains National Park as one of our nation's great treasures, and we believe the areas identified in S. 693 are most worthy of designation and management as wilderness. We strongly endorse the provisions of S. 693 and urge the committee to move forward with timely designation of this magnificent area.

We also respectfully request the committee's consideration of bill or report language to clarify the relationship between the Appalachian Trail and the areas considered for wilderness designation, and to encourage flexibility in managing several areas of special significance to both Trail users and park visitors generally.

In regard to Appalachian Trail administration, we request the inclusion of the following provision:

> **The establishment and nonmotorized maintenance of the Appalachian National Scenic Trail, as designated by section 5(a)(1) of the National Trails System Act (16 U.S.C. 11233 (a)(1), is compatible with the wilderness designations of the lands described in this Act. Accordingly, the National Park Service shall continue traditional management practices of any portion of the Appalachian Trail which passes through said area, including Trail marking, and footpath maintenance, construction, and relocation. Structure (shelter) maintenance may also be permitted and desirable for the protection of the wilderness and health and safety of persons within the area. Management decisions in this regard should be developed in consultation and coordination with the Appalachian Trail Conference and other interested organizations and individuals.**

In regard to special management areas, the Appalachian Trail Conference is concerned that the current provisions of the Act do not allow for maintenance of two significant open areas or "balds" crossed by the Appalachian Trail in the park. These areas include Spence Field/Thunderhead and Silers Bald.

Balds and open areas have long been a principal attraction in the park. They are favored destinations for many visitors, both because of the spectacular views they afford and for their contrasting flora of grasses and heaths.

In response to strong public opinion favoring maintenance of such areas the general management plan for the park was amended to provide for continuing maintenance of two principal balds: Gregory Bald and Andrews Bald. The management plan did not provide for maintenance of Spence Field, Thunderhead, and Silers Bald, however. And yet, from the standpoint of Appalachian Trail visitors, the latter areas are equally valued and more accessible.

We believe these areas represent an important part of the diversity and scenic quality that makes the Great Smoky Mountains National Park worthy of wilderness designation. Thus, we believe nonmotorized maintenance and restoration of these areas is consistent with the purposes of the Act, and we encourage the committee to incorporate language that will allow maintenance of these areas.

Again, we are pleased to support the designation of wilderness within the Great Smoky Mountains National Park as provided in S. 693. And, we appreciate the committee's consideration of our requests for additional language.

Sincerely,

David N. Startzell

David N. Startzell
Executive Director

DNS/neo

Tennessee Wilderness Action Council

KENNETH S. WARREN, Chairman
105 Evans Lane
Oak Ridge, Tennessee 37830
Phone (615) 483-8972
483-1027

Senate Committee on Energy and
Natural Resources
Sub-Comm. on Public Land, National
Parks and Forests
360 Dirksen Bldg.
Washington, DC 20510

Dear Sirs:

Our Council wishes to submit for the record of the present hearing on Senate Bill S.693, sponsored by Tennessee Senators Gore and Sasser, and NC Senator Sanford, the following:

The Great Smoky Mountains National Park is situated in the heavily populated eastern United States where it draws a larger human visitation than any other national park. This fact underscores its importance to the public and the need for guidelines to preserve it.

The GSMNPark is a natural geologic unit in which the streams, land forms, vegetation and wildlife exist as they have for many centuries. It has been declared an international biosphere preserve, and contains the world's finest examples of temperate deciduous forest.

Our Council supports S. 693, and we oppose any reduction in the 387,000 acres of wilderness such as has been proposed by Senator Helms. Likewise, we reject any plan to build roads in this acreage.

Thank you for this opportunity to make our concerns known.

Kenneth S. Warren

Kenneth S. Warren, Chairman,

TENNESSEE WILDERNESS ACTION COUNCIL

July 22, 1987
1533 Highland Ave. #1
Knoxville, TN 37916

Senate Committee on Energy and Natural Resources
Sub-Comm. on Public Land, National Parks and Forests
360 Dirksen Bldg.
Washington, D.C. 20510

Dear Senators:

I am a member of the Smoky Mountain Hiking Club and I hike regularly in the Smoky Mountain National Park. I am writing to let you know that I strongly support the designation of the park as a wilderness area as proposed in Senate Bill S.693. This large mountain wilderness area is desperately needed in eastern U.S. where wilderness recreation opportunities are lacking, where habitats for wildlife are disappearing, and national forests are being developed and lost to future generations. I completely oppose any reduction in the 467,00 acres such as Senator Helms is calling for. I oppose any construction of roads for any pupose through the wilderness area. Let's save the park and save an oasis of natural beauty for ourselves and our children to enjoy for years to come. Please make this letter a part of the record of the hearing.

Thank you for giving this matter the serious attention it deserves, before it is too late.

Sincerely yours,

Laura Saxton

Laura Saxton

THIRD NATIONAL BANK
NASHVILLE, TENNESSEE 37244

ROBERT D. BROWN
ASSISTANT VICE PRESIDENT
AND TRUST INVESTMENT OFFICER

July 10, 1987

Senate Subcommittee on Energy
and Natural Resources
Subcommittee on Public Land,
National Parks and Forests
360 Dirksen Building
Washington, DC 20510

RE: Senate Bill S. 693

Gentlemen:

Please make a part of the record of your hearing on the above bill:

1. My strong support for S. 693,
2. My strong opposition to any reduction in the 497,000 acres the bill designates as wilderness defined as Natural Environment Type I in the 1982 General Management Plan,
3. My strongest opposition to any road construction for any purpose within this 467,000 acre area.

In biological species diversify and mix the Great Smoky Mountains National Park area is unique to the North American continent as well as in many other aspects of natural and human history. It is vital that the area in question be designated wilderness to preserve it as a laboratory and a primitive recreational resource for all future generations.

Sincerely,

Robert D. Brown

Robert D. Brown

RDB:cw:a

PIEROTTI, SHANKS, RIGGS, & WILLS
ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION

*RICHARD W. PIEROTTI
PHILIP T. SHANKS, III
MICHAEL H. WILLS
RONALD T. RIGGS
DEBORAH M. SHANKS

*LICENSED IN TENNESSEE AND MISSISSIPPI

TELEPHONE (901) 526-6200
SUITE 3201
100 NORTH MAIN BUILDING
MEMPHIS, TENNESSEE 38103

July 9, 1987

Senate Committee on Energy & Natural Resources
Sub-Comm. on Public Lan, National Parks & Forests
360 Dirksen Building
Washington, D.C. 20510

RE: S. 693

Dear Sir/Madame:

Please be advised that I am not only a concerned citizen of the State of Tennessee but also a member of the Sierra Club and as such wanted to take this time to state that I strongly support the above House bill.

This vast mountain wilderness area is desperately needed in this particulary region of the United States where there is a shortage of wilderness recreation opportunities; specific wildlife habitat is increasingly disappearing; and our national forest are being over developed.

I further oppose any reduction in the 467,000 acres now proposed by Senator Helms.

I further express my opposition of any type of the construction of roads for any purpose whatsoever in the 467,000 acres proposed for wilderness protection under said bill.

I would finally ask that my letter be made a part of the record of any hearings concerning the same.

This area of beauty should be preserved for future generations to observe and enjoy.

Thank you for your anticipated cooperation.

Yours very truly,

Richard W. Pierotti

Richard W. Pierotti

RWP/vsw

LAW OFFICES
McGUIRE, WOOD & BISSETTE, P.A.
SUITE 705 FIRST UNION NATIONAL BANK BUILDING
82 PATTON AVENUE
POST OFFICE BOX 1411
ASHEVILLE, NORTH CAROLINA 28802-1411
(704) 254-8806

WALTER R. McGUIRE
RICHARD A. WOOD, JR.
W. LOUIS BISSETTE, JR.
DOUGLAS O. THIGPEN
JOSEPH P. McGUIRE
DORIS S. PHILLIPS
M. CHARLES CLONINGER

OF COUNSEL:
FRANK M. PARKER

June 17, 1987

Senate Energy and Natural Resources Committee
308 Dirkson Senate Office Building
Washington, D.C. 20510

Dear Sirs or Madams:

I am writing to express my support of the Sasser-Sanford bill (S 693) regarding the designation of certain land in the Great Smoky Mountains National Park as wilderness area.

The Great Smoky Mountain National Park deserves wilderness protection because of its outstanding natural qualities, including its designation as an international biosphere reserve. It has great ecological and biological importance due to the number of undisturbed water sheds and species diversity there.

As you know, there is currently more demand for wilderness than there is wilderness to meet the demand. Furthermore, the Park is home to black bears which need an extended range of undisturbed habitat to insure survival. Although the Park is currently managed as a wilderness, this represents an administrative decision which could be altered at some point in the future.

The Clark bill offers the most equitable solution to the 1943 agreement by authorizing the payment of 9.5 million dollars to Swain County and forgiveness of an FHA loan to Swain County to build a school. The environment damage that would occur by building a road along the north shore of Lake Fontana and the enormous cost of such a road has made it politically unviable.

I strongly urge the members of the committee, therefore, to support this bill.

Sincerely,

M. Charles Cloninger

MCC/tms

June 29, 1987

Senate Committee on Energy and Natural Resources
Sub-Comm. on Public Land, Natl. Parks and Forests
360 Dirksen Bldg.
Washington, D.C. 20515

Dear Sir/Madam:

I am in strong support of S.693. Any reduction in acreage from the proposed 467,000 or any road building within the area is unsatifactory.

Sincerely,
Richard Busing

Richard Busing
124-B Taliwa Ct.
Knoxville, TN 37920

July 6, 1987

Senate Committee on Energy & Natural Resources
Sub-Comm. on Public Land, Nat. Parks, & Forests
360 Dirksen Bldg.
Washington, DC 20510

Dear Senators:

As a resident of Tennessee, I strongly urge the Committee to support S.693. This bill covers probably the last mountain wilderness available in the eastern United States. After heavy commercial exploitation early this century, nature has made a remarkable comeback, and is affording wilderness recreation to thousands of people and habitat to an increasing number of threatened wildlife. I urge you to oppose any reduction in the 467,000 acres as Senator Helms is calling for and to oppose any road construction in the 467,000 acres proposed for wilderness protection. Please pass the bill as is.

Sincerely,

Edward Carter
2345 Ashford Dr.
Chattanooga, TN 37421

July 8, 1987

The Honorable Dale Bumpers, Chairman
Subcommittee on Public Lands, National Parks and Forests
Senate Energy and Natural Resources Committee
U.S.Senate
Room 308, Dirksen Senate Office Building
Washington, D.C. 20510

BILL: S.7, California Desert Protection Act
POSITION: OPPOSE

Dear Senator Bumpers:

I would like to express my opposition to S.7, California Desert Protection Act for one simple reason. It completely ignores the recommendations of the comprehensive California Desert Conservation Act (CDCA) proposal. The CDCA proposal was based on the recommendations of a committee of exceptionally well educated, experienced scientists, educators, environmentalists, and historians. They put together a workable multi-use plan that is very protective of the sensitive desert environment. S.7, on the other hand, is suggestive of an exceptionally emotional and ignorant response that was quickly put together and will have serious environmental consequences to the desert communities.

Please do not ignore the educated effort of many people. They followed an excellent procedure and came up with a reasonable compromise. Please oppose S.7.

Sincerely,

Paul D Hartley

Paul D. Hartley
1170 S.Flower Circle
Lakewood, Colorado 80226

Copy to:
The Honorable Pete Wilson
U.S.Senate
Washington, D.C. 20510

The Honorable Tim Wirth
U.S.Senate
Washington, D.C. 20510

Governor George Deukmejian
State Capitol
Sacramento, CA 95814

7-4-87

KAREN M. YOUNG
6717 GREEN GAP ROAD
OOLTEWAH, TN 37363

Senate Committee on Energy + Natural
Resources
Sub-Comm. on Public Land, National
Parks + Forests.
360 Dirksen Bldg.
Washington, D.C. 20510

I strongly support Senate bill S. 693 which is needed to preserve wilderness in the Great Smoky Mountains National Park. So little land remains untainted by man in the eastern U.S. As a result, wildlife habitat is decreased and we cheat ourselves out of the opportunity to be able to enjoy a small bit of creation as nature intended it.

I opposed further road building in the 467,000 acres now proposed as wilderness, as I oppose any development or logging in our natural forests. Lets leave well enough alone.

Sincerely
Karen M. Young

June 30, 1987
1408 Brightridge Dr.
Kingsport, TN
37664

Senate Committee on Energy
and Natural Resources
Sub-Comm. on Public Land
National Parks and Forests
360 Dirksen Bldg.
Washington, D.C. 20510

Dear Associates:

Please support the S.693 (the Senate Bill) and H.R. 1495 the House Bill that will preserve 467,000 acres as Wilderness areas.

Sincerely,
Jim Von Bramer

WILLIAMS
P. O. BOX 447 - 3 CHURCH DR.
PLEASANT HILL, TN. 38578

July 1, 1987

Senate Comm on Energy & Natural Resources
Sub-Comm on Public Land, National Parks & Forests
360 Dirksen Bldg
Wash. D.C. 20510

Dear Sirs:

I wish to send you my strong support for S 693 to make the Great Smoky Mts wilderness a reality, all 467,000 acres of it; no reduction that Sen. Helms is proposing. Having lived in Knoxville for many years I know and appreciate the value & need for a wilderness area in this part of the country.

I oppose any road for any purpose in the 467,000 acres proposed for wildnes area.

The settlement of this affair is long overdue & Swain County should be paid the lump sum of money indicated

Sincerely Yours,
Mary Williams

304 Brandywine Drive
Old Hickory, Tn. 37138
June 29, 1987

Senate Committee on Energy & Natural Resources
Sub-Comm. on Public Land
National Parks & Forests
360 Dirksen Bldg.
Washington, D.C. 20510

Gentlemen:

I strongly support Senate bill S.693. That large wilderness area of Great Smokey Mountain National Park has long been a place of rejuvination when my life has been full of stress. It is one of my most favorite places in this world & I definitely oppose any reduction in the acreage or any new road construction.

It is my feeling that this part of the United States needs an area like this for emotional stability, as well as, for good air control. After all, trees are God's own air conditioners.

Please save our wilderness.

Sincerely,

Floretta Anderson

6-30-87

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES
SUB-COMM ON PUBLIC LAND, NATIONAL PARKS & FORESTS
360 DIRKSEN BLG
WASHINGTON DC 20510
RE: S.693

Dear Senators, Sasser, Gore, Sanford

Please accept my comments on S.693 as they apply to Great Smoky Mountains National Park.

I oppose any reduction in the 467,000 acres to be designated as wilderness in the Great Smoky Mountains National Park.

I oppose any road construction for any purpose in the 467,000 acres.

Swain county NC should receive a form of monetary compensation but no roads should be built. (as suggested by Senator Helms).

Please act accordingly to protect as wilderness all acreage in Great Smoky Mountains National Park.

SWAIN COUNTY NC PROPERTY OWNER
AND MEMBER OF SMOKY MOUNTAINS
HIKING CLUB.

Sincerely
Alfred B. Watson
1442 Ragley Hall
Atlanta Ga 30319

CHARLES S SIMMS
2404 SHERROD RD
KNOXVILLE TN 37920 01AM

Western Union Mailgram

4-005854S182 07/01/87 ICS IPMBNGZ CSP WHSB
6155735058 MGMS TDBN KNOXVILLE TN 49 07-01 0925A EST

SENATE COMMITTEE ENERGY & NATURAL RESOURCES
SUBCOMMITTEE PUBLIC LANDS NATL PARKS &
FORESTS
360 DIRKSEN BLDG
WASHINGTON DC 20510

STRONGLY SUPPORT H.B.1495, OPPOSE ANY REDUCTION IN THE 469,000 ACRES FOR THE SMOKEY MOUNTAINS NATIONAL PARK, OPPOSE ANY ROAD CONSTRUCTION,

MRS CHARLES S SIMMS
2404 SHERROD RD
KNOXVILLE TN 37920

09:27 EST

MGMCOMP

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

Clifford J. Harrison, Jr.
201 FOURTH AVENUE, N.
NASHVILLE, TENNESSEE 37244

July 3, 1987

Senate Committee on Energy
and Natural Resources
Sub-Comm. on Public Land,
National Parks and Forests
360 Dirksen Bldg.
Washington, D.C. 20510

Gentlemen:

I want your Committee to know that I strongly support S.693.

Eastern United States needs this wilderness area and I oppose any reduction whatsoever of the designated 467,000 acres. I likewise oppose any road construction in the protected 467,000 acres.

Very truly yours,

Clifford J Harrison Jr

CJHJr:jd

7/20/87

DAKIN COOK
P.O. Box 858
Franklin, TN
37065-0858

Dear Senate Committee on Energy and Natural resources!

I request that you make this letter a part of the record of your hearing on S. 693.

1. I strongly support S. 693.
2. A large mountain wilderness is badly needed in the eastern U.S. where wildlife is disappearing and national parks are being over developed.
3. I strongly oppose any reduction in the 467,000 acres as Senator Helms is calling for
4. I oppose any road construction for any purpose in the 467,000 acres proposed for wilderness protection in S. 693.

Sincerely,
Dakin Cook